

107TH CONGRESS  
1ST SESSION

# H. R. 2108

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2001

Mr. MATSUI (for himself, Mr. BECERRA, Mr. POMEROY, Mr. CONDIT, Mr. SAWYER, Mr. THOMPSON of California, Mrs. CAPPS, Ms. LOFGREN, Mr. BENTSEN, Mr. CROWLEY, Mr. KANJORSKI, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Energy Security and Tax Incentive Policy Act of 2001”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-  
8 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment  
 2 to, or repeal of, a section or other provision, the reference  
 3 shall be considered to be made to a section or other provi-  
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for  
 6 this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

#### TITLE I—ENERGY-EFFICIENT PROPERTY USED IN BUSINESS

Sec. 101. Credit for energy-efficient property used in business.

Sec. 102. Energy Efficient Commercial Building Property Deduction.

Sec. 103. Credit for energy-efficient appliances.

#### TITLE II—RESIDENTIAL ENERGY SYSTEMS

Sec. 201. Business credit for construction of new energy-efficient home.

Sec. 202. Credit for energy efficiency improvements to existing homes.

Sec. 203. Credit for residential solar, wind, and fuel cell energy property.

#### TITLE III—ELECTRICITY FACILITIES AND PRODUCTION

Sec. 301. Incentive for Distributed Generation.

Sec. 302. Modifications to credit for electricity produced from renewable and waste resources.

Sec. 303. Treatment of facilities using bagasse to produce energy as solid waste disposal facilities eligible for tax-exempt financing.

Sec. 304. Depreciation of property used in the transmission of electricity.

#### TITLE IV—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

Sec. 401. Credit for investment in qualifying advanced clean coal technology.

Sec. 402. Credit for production from qualifying advanced clean coal technology.

Sec. 403. Risk pool for qualifying advanced clean coal technology.

#### TITLE V—HEATING FUELS AND STORAGE

Sec. 501. Full expensing of propane storage facilities.

Sec. 502. Arbitrage rules not to apply to prepayments for natural gas and other commodities.

Sec. 503. Private loan financing test not to apply to prepayments for natural gas and other commodities.

#### TITLE VI—OIL AND GAS PRODUCTION AND PETROLEUM PRODUCTS

Sec. 601. Credit for production of re-refined lubricating oil.

Sec. 602. Oil and gas from marginal wells.

Sec. 603. Deduction for delay rental payments.

Sec. 604. Election to expense geological and geophysical expenditures.

Sec. 605. Gas pipelines treated as 7-year property.  
 Sec. 606. Crude oil and natural gas development credit.  
 Sec. 607. Credit for capture of coalmine methane gas.  
 Sec. 608. Allocation of alcohol fuels credit to patrons of a cooperative.  
 Sec. 609. Extension of credit for producing fuel from a nonconventional source.

1     **TITLE I—ENERGY-EFFICIENT**  
 2     **PROPERTY USED IN BUSINESS**  
 3     **SEC. 101. CREDIT FOR CERTAIN ENERGY-EFFICIENT PROP-**  
 4             **ERTY USED IN BUSINESS.**

5             (a) IN GENERAL.—Subpart E of part IV of sub-  
 6 chapter A of chapter 1 (relating to rules for computing  
 7 investment credit) is amended by inserting after section  
 8 48 the following:

9     **“SEC. 48A. ENERGY CREDIT.**

10             “(a) IN GENERAL.—For purposes of section 46, the  
 11 energy credit for any taxable year is the energy percentage  
 12 of the basis of each energy property placed in service dur-  
 13 ing such taxable year.

14             “(b) ENERGY PERCENTAGE.—

15                     “(1) IN GENERAL.—The energy percentage is—

16                             “(A) except as otherwise provided in this  
 17 subparagraph, 10 percent,

18                             “(B) in the case of energy property de-  
 19 scribed in clauses (i), (iii), and (vi) of sub-  
 20 section (c)(1)(A), 20 percent,

21                             “(C) in the case of energy property de-  
 22 scribed in subsection (c)(1)(A)(v), 15 percent,

1 “(D) in the case of energy property de-  
 2 scribed in subsection (c)(1)(A)(ii) relating to a  
 3 high risk geothermal well, 20 percent, and

4 “(E) in the case of energy property de-  
 5 scribed in subsection (c)(1)(A)(vii), 30 percent.

6 “(2) COORDINATION WITH REHABILITATION.—  
 7 The energy percentage shall not apply to that por-  
 8 tion of the basis of any property which is attrib-  
 9 utable to qualified rehabilitation expenditures.

10 “(c) ENERGY PROPERTY DEFINED.—

11 “(1) IN GENERAL.—For purposes of this sub-  
 12 part, the term ‘energy property’ means any  
 13 property—

14 “(A) which is—

15 “(i) solar energy property,

16 “(ii) geothermal energy property,

17 “(iii) energy-efficient building prop-  
 18 erty other than property described in  
 19 clauses (iii)(I) and (v)(I) of subsection  
 20 (d)(3)(A),

21 “(iv) combined heat and power system  
 22 property,

23 “(v) low core loss distribution trans-  
 24 former property,

1 “(vi) qualified anaerobic digester  
2 property, or

3 “(vii) qualified wind energy systems  
4 equipment property,

5 “(B)(i) the construction, reconstruction, or  
6 erection of which is completed by the taxpayer,  
7 or

8 “(ii) which is acquired by the taxpayer if  
9 the original use of such property commences  
10 with the taxpayer.

11 “(C) which can reasonably be expected to  
12 remain in operation for at least 5 years,

13 “(D) with respect to which depreciation (or  
14 amortization in lieu of depreciation) is allow-  
15 able, and

16 “(E) which meets the performance and  
17 quality standards (if any) which—

18 “(i) have been prescribed by the Sec-  
19 retary by regulations (after consultation  
20 with the Secretary of Energy), and

21 “(ii) are in effect at the time of the  
22 acquisition of the property.

23 “(2) EXCEPTIONS.—

24 “(A) PUBLIC UTILITY PROPERTY.—Such  
25 term shall not include any property which is

public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), except for property described in paragraph (1)(A)(iv).

“(B) CERTAIN WIND EQUIPMENT.—Such term shall not include equipment described in paragraph (1)(A)(vii) which is taken into account for purposes of section 45 for the taxable year.

“(d) DEFINITIONS RELATING TO TYPES OF ENERGY PROPERTY.—For purposes of this section—

“(1) SOLAR ENERGY PROPERTY.—

“(A) IN GENERAL.—The term ‘solar energy property’ means equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat.

“(B) SWIMMING POOLS, ETC. USED AS STORAGE MEDIUM.—The term ‘solar energy property’ shall not include property with respect to which expenditures are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage.

1           “(C) SOLAR PANELS.—No solar panel or  
2           other property installed as a roof (or portion  
3           thereof) shall fail to be treated as solar energy  
4           property solely because it constitutes a struc-  
5           tural component of the structure on which it is  
6           installed.

7           “(2) GEOTHERMAL ENERGY PROPERTY.—

8           “(A) IN GENERAL.—The term ‘geothermal  
9           energy property’ means equipment used to  
10          produce, distribute, or use energy derived from  
11          a geothermal deposit (within the meaning of  
12          section 613(e)(2)), but only, in the case of elec-  
13          tricity generated by geothermal power, up to  
14          (but not including) the electrical transmission  
15          stage.

16          “(B) HIGH RISK GEOTHERMAL WELL.—  
17          The term ‘high risk geothermal well’ means a  
18          geothermal deposit (within the meaning of sec-  
19          tion 613(e)(2)) which requires high risk drilling  
20          techniques. Such deposit may not be located in  
21          a State or national park or in an area in which  
22          the relevant State park authority or the Na-  
23          tional Park Service determines the development  
24          of such a deposit will negatively impact on a  
25          State or national park.

1           “(3) ENERGY-EFFICIENT BUILDING PROP-  
2       ERTY.—

3           “(A) IN GENERAL.—The term ‘energy-effi-  
4       cient building property’ means—

5           “(i) a fuel cell which—

6                 “(I) generates electricity using  
7                 an electrochemical process,

8                 “(II) has an electricity-only gen-  
9                 eration efficiency greater than 30 per-  
10                cent, and

11               “(III) has a minimum generating  
12                capacity of 2 kilowatts,

13           “(ii) an electric heat pump hot water  
14           heater which yields an energy factor of 1.7  
15           or greater under test procedures prescribed  
16           by the Secretary of Energy,

17               “(iii)(I) an electric heat pump which  
18               has a heating system performance factor  
19               (HSPF) of at least 8.5 but less than 9 and  
20               a cooling seasonal energy efficiency ratio  
21               (SEER) of at least 13.5 but less than 15,

22               “(II) an electric heat pump which has  
23               a heating system performance factor  
24               (HSPF) of 9 or greater and a cooling sea-



sonal energy efficiency ratio (SEER) of 15  
or greater,

“(iv) a natural gas heat pump which  
has a coefficient of performance of not less  
than 1.25 for heating and not less than  
0.70 for cooling,

“(v)(I) a central air conditioner which  
has a cooling seasonal energy efficiency  
ratio (SEER) of at least 13.5 but less than  
15,

“(II) a central air conditioner which  
has a cooling seasonal energy efficiency  
ratio (SEER) of 15 or greater,

“(vi) an advanced natural gas water  
heater which—

“(I) increases steady state effi-  
ciency and reduces standby and vent  
losses, and

“(II) has an energy factor of at  
least 0.65,

“(vii) an advanced natural gas fur-  
nace which achieves a 90 percent AFUE  
and rated for seasonal electricity use of  
less than 300 kWh per year, and

1 “(viii) natural gas cooling equipment  
2 which meets all applicable standards of the  
3 American Society of Heating, Refriger-  
4 erating, and Air Conditioning Engineers  
5 and which—

6 “(I) has a coefficient of perform-  
7 ance of not less than .60, or

8 “(II) uses desiccant technology  
9 and has an efficiency rating of not  
10 less than 50 percent.

11 “(B) LIMITATIONS.—The credit under sub-  
12 section (a) for the taxable year may not  
13 exceed—

14 “(i) \$500 in the case of property de-  
15 scribed in subparagraph (A) other than  
16 clauses (i), (iv), and (viii) thereof,

17 “(ii) \$500 for each kilowatt of capac-  
18 ity in the case of any fuel cell described in  
19 subparagraph (A)(i),

20 “(iii) \$1,000 in the case of any nat-  
21 ural gas heat pump described in subpara-  
22 graph (A)(iv), and

23 “(iv) \$150 for each ton of capacity in  
24 the case of any natural gas cooling equip-  
25 ment described in subparagraph (A)(viii).

1           “(4) COMBINED HEAT AND POWER SYSTEM  
2       PROPERTY.—

3           “(A) IN GENERAL.—The term ‘combined  
4       heat and power system property’ means  
5       property—

6           “(i) comprising a system for the same  
7       energy source for the simultaneous or se-  
8       quential generation of electrical power, me-  
9       chanical shaft power, or both, in combina-  
10      tion with steam, heat, or other forms of  
11      useful energy,

12          “(ii) which has an electrical capacity  
13      of more than 50 kilowatts or a mechanical  
14      energy capacity of more than 67 horse-  
15      power or an equivalent combination of elec-  
16      trical and mechanical energy capacities,

17          “(iii) which produces—

18           “(I) at least 20 percent of its  
19      total useful energy in the form of  
20      thermal energy, and

21           “(II) at least 20 percent of its  
22      total useful energy in the form of elec-  
23      trical or mechanical power (or a com-  
24      bination thereof), and

1 “(iv) the energy efficiency percentage  
2 of which exceeds—

3 “(I) 60 percent in the case of a  
4 system with an electrical capacity of  
5 less than 1 megawatt,

6 “(II) 65 percent in the case of a  
7 system with an electrical capacity of  
8 not less than 1 megawatt and not in  
9 excess of 50 megawatts, and

10 “(III) 70 percent in the case of a  
11 system with an electrical capacity in  
12 excess of 50 megawatts.

13 “(B) SPECIAL RULES.—

14 “(i) ENERGY EFFICIENCY PERCENT-  
15 AGE.—For purposes of subparagraph  
16 (A)(iv), the energy efficiency percentage of  
17 a system is the fraction—

18 “(I) the numerator of which is  
19 the total useful electrical, thermal,  
20 and mechanical power produced by  
21 the system at normal operating rates,  
22 and

23 “(II) the denominator of which is  
24 the lower heating value of the primary  
25 fuel source for the system.

1 “(ii) DETERMINATIONS MADE ON BTU  
2 BASIS.—The energy efficiency percentage  
3 and the percentages under subparagraph  
4 (A)(iii) shall be determined on a Btu basis.

5 “(iii) INPUT AND OUTPUT PROPERTY  
6 NOT INCLUDED.—The term ‘combined heat  
7 and power system property’ does not in-  
8 clude property used to transport the en-  
9 ergy source to the facility or to distribute  
10 energy produced by the facility.

11 “(iv) ACCOUNTING RULE FOR PUBLIC  
12 UTILITY PROPERTY.—If the combined heat  
13 and power system property is public utility  
14 property (as defined in section 46(f)(5) as  
15 in effect on the day before the date of the  
16 enactment of the Revenue Reconciliation  
17 Act of 1990), the taxpayer may only claim  
18 the credit under subsection (a)(1) if, with  
19 respect to such property, the taxpayer uses  
20 a normalization method of accounting.

21 “(5) LOW CORE LOSS DISTRIBUTION TRANS-  
22 FORMER PROPERTY.—The term ‘low core loss dis-  
23 tribution transformer property’ means a distribution  
24 transformer which has energy savings from a highly  
25 efficient core of at least 20 percent more than the

1 average for power ratings reported by studies re-  
2 quired under section 124 of the Energy Policy Act  
3 of 1992.

4 “(6) QUALIFIED ANAEROBIC DIGESTER PROP-  
5 ERTY.—The term ‘qualified anaerobic digester prop-  
6 erty’ means an anaerobic digester for manure or  
7 crop waste which achieves at least 65 percent effi-  
8 ciency measured in terms of the fraction of energy  
9 input converted to electricity and useful thermal en-  
10 ergy.

11 “(7) QUALIFIED WIND ENERGY SYSTEMS  
12 EQUIPMENT PROPERTY.—The term ‘qualified wind  
13 energy systems equipment property’ means wind en-  
14 ergy systems equipment with a turbine size of not  
15 more than 75 kilowatts rated capacity.

16 “(e) SPECIAL RULES.—For purposes of this  
17 section—

18 “(1) SPECIAL RULE FOR PROPERTY FINANCED  
19 BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL  
20 DEVELOPMENT BONDS.—

21 “(A) REDUCTION OF BASIS.—For purposes  
22 of applying the energy percentage to any prop-  
23 erty, if such property is financed in whole or in  
24 part by—

25 “(i) subsidized energy financing, or

1           “(ii) the proceeds of a private activity  
2           bond (within the meaning of section 141)  
3           the interest on which is exempt from tax  
4           under section 103, the amount taken into  
5           account as the basis of such property shall  
6           not exceed the amount which (but for this  
7           subparagraph) would be so taken into ac-  
8           count multiplied by the fraction deter-  
9           mined under subparagraph (B).

10           “(B) DETERMINATION OF FRACTION.—For  
11           purposes of subparagraph (A), the fraction de-  
12           termined under this subparagraph is 1 reduced  
13           by a fraction—

14           “(i) the numerator of which is that  
15           portion of the basis of the property which  
16           is allocable to such financing or proceeds,  
17           and

18           “(ii) the denominator of which is the  
19           basis of the property.

20           “(C) SUBSIDIZED ENERGY FINANCING.—  
21           For purposes of subparagraph (A), the term  
22           ‘subsidized energy financing’ means financing  
23           provided under a Federal, State, or local pro-  
24           gram a principal purpose of which is to provide

1           subsidized financing for projects designed to  
2           conserve or produce energy.

3           “(2) CERTAIN PROGRESS EXPENDITURE RULES  
4           MADE APPLICABLE.—Rules similar to the rules of  
5           subsections (c)(4) and (d) of section 46 (as in effect  
6           on the day before the date of the enactment of the  
7           Revenue Reconciliation Act of 1990) shall apply for  
8           purposes of this section.

9           “(f) APPLICATION OF SECTION.—

10           “(1) IN GENERAL.—Except as provided by  
11           paragraph (2), this section shall apply to property  
12           placed in service after December 31, 2001, and be-  
13           fore January 1, 2009.

14           “(2) EXCEPTIONS.—

15           “(A) SOLAR ENERGY AND GEOTHERMAL  
16           ENERGY PROPERTY.—Paragraph (1) shall not  
17           apply to solar energy property or geothermal  
18           energy property.

19           “(B) CERTAIN ELECTRIC HEAT PUMPS  
20           AND CENTRAL AIR CONDITIONERS.—In the case  
21           of property which is described in subsection  
22           (d)(3)(A)(iii)(I) or (d)(3)(A)(v)(I), this section  
23           shall apply to property placed in service after  
24           December 31, 2001, and before January 1,  
25           2006.”.



1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 48 is amended to read as follows:

3 **“SEC. 48. REFORESTATION CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 46, the  
5 reforestation credit for any taxable year is 20 percent of  
6 the portion of the amortizable basis of any qualified timber  
7 property which was acquired during such taxable year and  
8 which is taken into account under section 194 (after the  
9 application of section 194(b)(1)).

10 “(b) DEFINITIONS.—For purposes of this subpart,  
11 the terms ‘amortizable basis’ and ‘qualified timber prop-  
12 erty’ have the respective meanings given to such terms by  
13 section 194.”.

14 (2) Section 39(d) is amended by adding at the  
15 end the following:

16 “(10) NO CARRYBACK OF ENERGY CREDIT BE-  
17 FORE EFFECTIVE DATE.—No portion of the unused  
18 business credit for any taxable year which is attrib-  
19 utable to the energy credit determined under section  
20 48A may be carried back to a taxable year ending  
21 before January 1, 2002.”.

22 (3) Section 280C is amended by adding at the  
23 end the following:

24 “(d) CREDIT FOR ENERGY PROPERTY EXPENSES.—

1           “(1) IN GENERAL.—No deduction shall be al-  
 2           lowed for that portion of the expenses for energy  
 3           property (as defined in section 48A(c)) otherwise al-  
 4           lowable as a deduction for the taxable year which is  
 5           equal to the amount of the credit determined for  
 6           such taxable year under section 48A(a).

7           “(2) SIMILAR RULE WHERE TAXPAYER CAP-  
 8           ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

9                   “(A) the amount of the credit allowable for  
 10                  the taxable year under section 48A (determined  
 11                  without regard to section 38(c)), exceeds

12                   “(B) the amount allowable as a deduction  
 13                  for the taxable year for expenses for energy  
 14                  property (determined without regard to para-  
 15                  graph (1)), the amount chargeable to capital  
 16                  account for the taxable year for such expenses  
 17                  shall be reduced by the amount of such excess.

18           “(3) CONTROLLED GROUPS.—Paragraph (3) of  
 19           subsection (b) shall apply for purposes of this sub-  
 20           section.”.

21           (4) Section 29(b)(3)(A)(i)(III) is amended by  
 22           striking ‘section 48(a)(4)(C)’ and inserting ‘section  
 23           48A(e)(1)(C)’.

24           (5) Section 50(a)(2)(E) is amended by striking  
 25           ‘section 48(a)(5)’ and inserting ‘section 48A(e)(2)’.

1 (6) Section 168(e)(3)(B) is amended—  
 2 (A) by striking clause (vi)(I) and inserting  
 3 the following:

4 “(I) is described in paragraph (1) or  
 5 (2) of section 48A(d) (or would be so de-  
 6 scribed if ‘solar and wind’ were substituted  
 7 for ‘solar’ in paragraph (1)(B)),”, and  
 8 (B) in the last sentence by striking “sec-  
 9 tion 48(a)(3)” and inserting “section  
 10 48A(c)(2)(A)”.

11 (c) CLERICAL AMENDMENT.—The table of sections  
 12 for subpart E of part IV of subchapter A of chapter 1  
 13 is amended by striking the item relating to section 48 and  
 14 inserting the following:

“Sec. 48. Reforestation credit.  
 “Sec. 48A. Energy credit.”.

15 (d) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply to property placed in service after  
 17 December 31, 2001, under rules similar to the rules of  
 18 section 48(m) of the Internal Revenue Code of 1986 (as  
 19 in effect on the day before the date of the enactment of  
 20 the Revenue Reconciliation Act of 1990).

21 **SEC. 102. ENERGY-EFFICIENT COMMERCIAL BUILDING**  
 22 **PROPERTY DEDUCTION.**

23 (a) IN GENERAL.—Part VI of subchapter B of chap-  
 24 ter 1 (relating to itemized deductions for individuals and

1 corporations) is amended by adding at the end the fol-  
 2 lowing:

3 **“SEC. 199. ENERGY-EFFICIENT COMMERCIAL BUILDING**  
 4 **PROPERTY.**

5 “(a) IN GENERAL.—There shall be allowed as a de-  
 6 duction for the taxable year an amount equal to the en-  
 7 ergy-efficient commercial building property expenditures  
 8 made by a taxpayer for the taxable year.

9 “(b) MAXIMUM AMOUNT OF DEDUCTION.—The  
 10 amount of energy-efficient commercial building property  
 11 expenditures taken into account under subsection (a) shall  
 12 not exceed an amount equal to the product of—

13 “(1) \$2.25, and

14 “(2) the square footage of the building with re-  
 15 spect to which the expenditures are made.

16 “(c) YEAR DEDUCTION ALLOWED.—The deduction  
 17 under subsection (a) shall be allowed in the taxable year  
 18 in which the construction of the building is completed.

19 “(d) ENERGY-EFFICIENT COMMERCIAL BUILDING  
 20 PROPERTY EXPENDITURES.—For purposes of this  
 21 section—

22 “(1) IN GENERAL.—The term ‘energy-efficient  
 23 commercial building property expenditures’ means  
 24 an amount paid or incurred for energy-efficient com-  
 25 mercial building property installed on or in connec-

1       tion with new construction or reconstruction of  
2       property—

3               “(A) for which depreciation is allowable  
4               under section 167,

5               “(B) which is located in the United States,  
6               and

7               “(C) the construction or erection of which  
8               is completed by the taxpayer.

9       Such property includes all residential rental prop-  
10      erty, including low-rise multifamily structures and  
11      single family housing property which is not within  
12      the scope of Standard 90.1–1999 (described in para-  
13      graph (3)).

14              “(2) LABOR COSTS INCLUDED.—Such term in-  
15      cludes expenditures for labor costs properly allocable  
16      to the onsite preparation, assembly, or original in-  
17      stallation of the property.

18              “(3) ENERGY EXPENDITURES EXCLUDED.—  
19      Such term does not include any expenditures taken  
20      into account in determining any credit allowed under  
21      section 48A.

22              “(e) ENERGY-EFFICIENT COMMERCIAL BUILDING  
23      PROPERTY.—For purposes of subsection (d)—

24              “(1) IN GENERAL.—The term ‘energy-efficient  
25      commercial building property’ means any property

1       which reduces total annual energy and power costs  
2       with respect to the lighting, heating, cooling, ventila-  
3       tion, and hot water supply systems of the building  
4       by 50 percent or more in comparison to a reference  
5       building which meets the requirements of Standard  
6       90.1–1999 of the American Society of Heating, Re-  
7       frigerating, and Air Conditioning Engineers and the  
8       Illuminating Engineering Society of North America  
9       using methods of calculation under subparagraph  
10      (B) and certified by qualified professionals as pro-  
11      vided under paragraph (6).

12           “(2) METHODS OF CALCULATION.—The Sec-  
13      retary, in consultation with the Secretary of Energy,  
14      shall promulgate regulations which describe in detail  
15      methods for calculating and verifying energy and  
16      power consumption and cost, taking into consider-  
17      ation the provisions of the 1998 California Nonresi-  
18      dential ACM Manual. These procedures shall meet  
19      the following requirements:

20           “(A) In calculating tradeoffs and energy  
21      performance, the regulations shall prescribe the  
22      costs per unit of energy and power, such as kil-  
23      owatt hour, kilowatt, gallon of fuel oil, and  
24      cubic foot or Btu of natural gas, which may be  
25      dependent on time of usage.

1           “(B) The calculational methodology shall  
2           require that compliance be demonstrated for a  
3           whole building. If some systems of the building,  
4           such as lighting, are designed later than other  
5           systems of the building, the method shall pro-  
6           vide that either—

7                   “(i) the expenses taken into account  
8                   under paragraph (1) shall not occur until  
9                   the date designs for all energy-using sys-  
10                  tems of the building are completed, or

11                  “(ii) the expenses taken into account  
12                  under paragraph (1) shall be a fraction of  
13                  such expenses based on the performance of  
14                  less than all energy-using systems in ac-  
15                  cordance with subparagraph (C), and the  
16                  energy performance of all systems and  
17                  components not yet designed shall be as-  
18                  sumed to comply minimally with the re-  
19                  quirements of such Standard 90.1–1999.

20           “(C) The expenditures in connection with  
21           the design of subsystems in the building, such  
22           as the envelope, the heating, ventilation, air  
23           conditioning and water heating system, and the  
24           lighting system shall be allocated to the appro-  
25           priate building subsystem based on system-spe-

1           cific energy cost savings targets in regulations  
2           promulgated by the Secretary of Energy which  
3           are equivalent, using the calculation method-  
4           ology, to the whole building requirement of 50  
5           percent savings.

6           “(D) The calculational methods under this  
7           paragraph need not comply fully with section  
8           11 of such Standard 90.1–1999.

9           “(E) The calculational methods shall be  
10          fuel neutral, such that the same energy effi-  
11          ciency features shall qualify a building for the  
12          deduction under this section regardless of  
13          whether the heating source is a gas or oil fur-  
14          nace or an electric heat pump.

15          “(F) The calculational methods shall pro-  
16          vide appropriate calculated energy savings for  
17          design methods and technologies not otherwise  
18          credited in either such Standard 90.1–1999 or  
19          in the 1998 California Nonresidential ACM  
20          Manual, including the following:

21                  “(i) Natural ventilation.

22                  “(ii) Evaporative cooling.

23                  “(iii) Automatic lighting controls such  
24                  as occupancy sensors, photocells, and time-  
25                  clocks.



1 “(iv) Daylighting.

2 “(v) Designs utilizing semi-condi-  
3 tioned spaces which maintain adequate  
4 comfort conditions without air conditioning  
5 or without heating.

6 “(vi) Improved fan system efficiency,  
7 including reductions in static pressure.

8 “(vii) Advanced unloading mecha-  
9 nisms for mechanical cooling, such as mul-  
10 tiple or variable speed compressors.

11 “(viii) The calculational methods may  
12 take into account the extent of commis-  
13 sioning in the building, and allow the tax-  
14 payer to take into account measured per-  
15 formance which exceeds typical perform-  
16 ance.

17 “(3) COMPUTER SOFTWARE.—

18 “(A) IN GENERAL.—Any calculation under  
19 this subsection shall be prepared by qualified  
20 computer software.

21 “(B) QUALIFIED COMPUTER SOFTWARE.—

22 For purposes of this paragraph, the term  
23 ‘qualified computer software’ means software—

24 “(i) for which the software designer  
25 has certified that the software meets all

1 procedures and detailed methods for calcu-  
2 lating energy and power consumption and  
3 costs as required by the Secretary,

4 “(ii) which provides such forms as re-  
5 quired to be filed by the Secretary in con-  
6 nection with energy efficiency of property  
7 and the deduction allowed under this sec-  
8 tion, and

9 “(iii) which provides a notice form  
10 which summarizes the energy efficiency  
11 features of the building and its projected  
12 annual energy costs.

13 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC  
14 PROPERTY.—In the case of energy-efficient commer-  
15 cial building property installed on or in public prop-  
16 erty, the Secretary shall promulgate a regulation to  
17 allow the allocation of the deduction to the person  
18 primarily responsible for designing the property in  
19 lieu of the public entity which is the owner of such  
20 property. Such person shall be treated as the tax-  
21 payer for purposes of this section.

22 “(5) NOTICE TO OWNER.—The qualified indi-  
23 vidual shall provide an explanation to the owner of  
24 the building regarding the energy efficiency features  
25 of the building and its projected annual energy costs

1 as provided in the notice under paragraph  
2 (3)(B)(iii).

3 “(6) CERTIFICATION.—

4 “(A) IN GENERAL.—Except as provided in  
5 this paragraph, the Secretary, in consultation  
6 with the Secretary of Energy, shall establish re-  
7 quirements for certification and compliance pro-  
8 cedures similar to the procedures under section  
9 45F(d).

10 “(B) QUALIFIED INDIVIDUALS.—Individuals  
11 qualified to determine compliance shall be only  
12 those individuals who are recognized by an or-  
13 ganization certified by the Secretary for such  
14 purposes.

15 “(C) PROFICIENCY OF QUALIFIED INDIVID-  
16 UALS.—The Secretary shall consult with non-  
17 profit organizations and State agencies with ex-  
18 pertise in energy efficiency calculations and in-  
19 spections to develop proficiency tests and train-  
20 ing programs to qualify individuals to determine  
21 compliance.

22 “(f) TERMINATION.—This section shall not apply  
23 with respect to any energy-efficient commercial building  
24 property expenditures in connection with property—

1 “(1) the plans for which are not certified under  
 2 subsection (e)(6) on or before December 31, 2006,  
 3 and

4 “(2) the construction of which is not completed  
 5 on or before December 31, 2008.”.

6 (b) CONFORMING AMENDMENTS.—Section 1016(a) is  
 7 amended by striking “and” at the end of paragraph (26),  
 8 by striking the period at the end of paragraph (27) and  
 9 inserting “, and”, and by inserting the following:

10 “(28) for amounts allowed as a deduction under  
 11 section 199(a).”.

12 (c) CLERICAL AMENDMENT.—The table of sections  
 13 for part VI of subchapter B of chapter 1 is amended by  
 14 adding at the end the following:

“Sec. 199. Energy-efficient commercial building property.”.

15 (d) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply to taxable years beginning after  
 17 December 31, 2001.

18 **SEC. 103. CREDIT FOR ENERGY-EFFICIENT APPLIANCES.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-  
 20 chapter A of chapter 1 (relating to business-related cred-  
 21 its) is amended by adding at the end the following:

22 **“SEC. 45E. ENERGY-EFFICIENT APPLIANCE CREDIT.**

23 “(a) GENERAL RULE.—For purposes of section 38,  
 24 the energy-efficient appliance credit determined under this  
 25 section for the taxable year is an amount equal to the ap-

1 plicable amount determined under subsection (b) with re-  
2 spect to qualified energy-efficient appliances produced by  
3 the taxpayer during the calendar year ending with or with-  
4 in the taxable year.

5 “(b) APPLICABLE AMOUNT.—For purposes of sub-  
6 section (a), the applicable amount determined under this  
7 subsection with respect to a taxpayer is the sum of—

8 “(1) in the case of an energy-efficient clothes  
9 washer described in subsection (d)(2)(A) or an en-  
10 ergy-efficient refrigerator described in subsection  
11 (d)(3)(B)(i), an amount equal to—

12 “(A) \$50, multiplied by

13 “(B) the number of such washers and re-  
14 frigerators produced by the taxpayer during  
15 such calendar year, and

16 “(2) in the case of an energy-efficient clothes  
17 washer described in subsection (d)(2)(B) or an en-  
18 ergy-efficient refrigerator described in subsection  
19 (d)(3)(B)(ii), an amount equal to—

20 “(A) \$100, multiplied by

21 “(B) the number of such washers and re-  
22 frigerators produced by the taxpayer during  
23 such calendar year.

24 “(c) LIMITATION ON MAXIMUM CREDIT.—

1           “(1) IN GENERAL.—The maximum amount of  
2           credit allowed under subsection (a) with respect to  
3           a taxpayer for all taxable years shall be—

4                   “(A) \$30,000,000 with respect to the cred-  
5                   it determined under subsection (b)(1), and

6                   “(B) \$30,000,000 with respect to the cred-  
7                   it determined under subsection (b)(2).

8           “(2) LIMITATION BASED ON GROSS RE-  
9           CEIPTS.—The credit allowed under subsection (a)  
10          with respect to a taxpayer for the taxable year shall  
11          not exceed an amount equal to 2 percent of the aver-  
12          age annual gross receipts of the taxpayer for the 3  
13          taxable years preceding the taxable year in which  
14          the credit is determined.

15          “(3) GROSS RECEIPTS.—For purposes of this  
16          subsection, the rules of paragraphs (2) and (3) of  
17          section 448(c) shall apply.

18          “(d) QUALIFIED ENERGY-EFFICIENT APPLIANCE.—  
19          For purposes of this section—

20                  “(1) IN GENERAL.—The term ‘qualified energy-  
21                  efficient appliance’ means—

22                          “(A) an energy-efficient clothes washer, or

23                          “(B) an energy-efficient refrigerator.

24                  “(2) ENERGY-EFFICIENT CLOTHES WASHER.—

25          The term ‘energy-efficient clothes washer’ means a

1 residential clothes washer, including a residential  
2 style coin operated washer, which is manufactured  
3 with—

4 “(A) a 1.26 Modified Energy Factor (re-  
5 ferred to in this paragraph as ‘MEF’) (as de-  
6 termined by the Secretary of Energy), or

7 “(B) a 1.42 MEF (as determined by the  
8 Secretary of Energy) (1.5 MEF for calendar  
9 years beginning after 2004).

10 “(3) ENERGY-EFFICIENT REFRIGERATOR.—The  
11 term ‘energy-efficient refrigerator’ means an auto-  
12 matic defrost refrigerator-freezer which—

13 “(A) has an internal volume of at least  
14 16.5 cubic feet, and

15 “(B) consumes—

16 “(i) 10 percent less kWh per year  
17 than the energy conservation standards  
18 promulgated by the Department of Energy  
19 for such refrigerator for 2001, or

20 “(ii) 15 percent less kWh per year  
21 than such energy conservation standards.

22 “(e) SPECIAL RULES.—

23 “(1) IN GENERAL.—Rules similar to the rules  
24 of subsections (c), (d), and (e) of section 52 shall  
25 apply for purposes of this section.

1           “(2) AGGREGATION RULES.—All persons treat-  
 2           ed as a single employer under subsection (a) or (b)  
 3           of section 52 or subsection (m) or (o) of section 414  
 4           shall be treated as one person for purposes of sub-  
 5           section (a).

6           “(f) VERIFICATION.—The taxpayer shall submit such  
 7           information or certification as the Secretary, in consulta-  
 8           tion with the Secretary of Energy, determines necessary  
 9           to claim the credit amount under subsection (a).

10          “(g) TERMINATION.—This section shall not apply—

11                 “(1) with respect to energy-efficient refrig-  
 12           erators described in subsection (d)(3)(B)(i) produced  
 13           in calendar years beginning after 2005, and

14                 “(2) with respect to all other qualified energy-  
 15           efficient appliances produced in calendar years be-  
 16           ginning after 2007.”.

17          (b) LIMITATION ON CARRYBACK.—Section 39(d) (re-  
 18           lating to transition rules), as amended by section  
 19           101(b)(2), is amended by adding at the end the following:

20                 “(11) NO CARRYBACK OF ENERGY-EFFICIENT  
 21           APPLIANCE CREDIT BEFORE 2002.—No portion of  
 22           the unused business credit for any taxable year  
 23           which is attributable to the energy-efficient appli-  
 24           ance credit determined under section 45E may be



1 carried to a taxable year beginning before January  
2 1, 2002.”.

3 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C  
4 (relating to certain expenses for which credits are allow-  
5 able), as amended by section 102(b)(3), is amended by  
6 adding at the end the following:

7 “(e) CREDIT FOR ENERGY-EFFICIENT APPLIANCE  
8 EXPENSES.—No deduction shall be allowed for that por-  
9 tion of the expenses for qualified energy-efficient appli-  
10 ances (as defined in section 45E(d)) otherwise allowable  
11 as a deduction for the taxable year which is equal to the  
12 amount of the credit determined for such taxable year  
13 under section 45E(a).”.

14 (d) CONFORMING AMENDMENT.—Section 38(b) (re-  
15 lating to general business credit) is amended by striking  
16 “plus” at the end of paragraph (12), by striking the period  
17 at the end of paragraph (13) and inserting “, plus”, and  
18 by adding at the end the following:

19 “(14) the energy-efficient appliance credit de-  
20 termined under section 45E(a).”.

21 (e) CLERICAL AMENDMENT.—The table of sections  
22 for subpart D of part IV of subchapter A of chapter 1  
23 is amended by inserting after the item relating to section  
24 45D the following:

“Sec. 45E. Energy-efficient appliance credit.”.

1 (f) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 2001.

## 4 **TITLE II—RESIDENTIAL ENERGY** 5 **SYSTEMS**

### 6 **SEC. 201. CREDIT FOR CONSTRUCTION OF NEW ENERGY-EF-** 7 **FICIENT HOME.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-  
 9 chapter A of chapter 1 (relating to business related cred-  
 10 its), as amended by section 103(a), is amended by insert-  
 11 ing after section 45E the following:

#### 12 **“SEC. 45F. NEW ENERGY-EFFICIENT HOME CREDIT.**

13 “(a) IN GENERAL.—For purposes of section 38, in  
 14 the case of an eligible contractor, the credit determined  
 15 under this section for the taxable year is an amount equal  
 16 to the aggregate adjusted bases of all energy-efficient  
 17 property installed in a qualified new energy-efficient home  
 18 during construction of such home.

19 “(b) LIMITATIONS.—

20 “(1) MAXIMUM CREDIT.—

21 “(A) IN GENERAL.—The credit allowed by  
 22 this section with respect to a dwelling shall not  
 23 exceed—

24 “(i) in the case of a dwelling described  
 25 in subsection (c)(3)(D)(i), \$1,500, and

1                   “(ii) in the case of a dwelling de-  
2                   scribed in subsection (c)(3)(D)(ii), \$2,500.

3                   “(B) PRIOR CREDIT AMOUNTS ON SAME  
4                   DWELLING TAKEN INTO ACCOUNT.—If a credit  
5                   was allowed under subsection (a) with respect  
6                   to a dwelling in 1 or more prior taxable years,  
7                   the amount of the credit otherwise allowable for  
8                   the taxable year with respect to that dwelling  
9                   shall not exceed the amount under clause (i) or  
10                  (ii) (as the case may be), reduced by the sum  
11                  of the credits allowed under subsection (a) with  
12                  respect to the dwelling for all prior taxable  
13                  years.

14                  “(2) COORDINATION WITH REHABILITATION  
15                  AND ENERGY CREDITS.—For purposes of this  
16                  section—

17                         “(A) the basis of any property referred to  
18                         in subsection (a) shall be reduced by that por-  
19                         tion of the basis of any property which is attrib-  
20                         utable to qualified rehabilitation expenditures  
21                         (as defined in section 47(c)(2)) or to the energy  
22                         percentage of energy property (as determined  
23                         under section 48A(a)), and

1           “(B) expenditures taken into account  
2           under either section 47 or 48A(a) shall not be  
3           taken into account under this section.

4           “(c) DEFINITIONS.—For purposes of this section—

5           “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-  
6           ble contractor’ means the person who constructed  
7           the new energy-efficient home, or in the case of a  
8           manufactured home which conforms to Federal  
9           Manufactured Home Construction and Safety Stand-  
10          ards (24 C.F.R. 3280), the manufactured home pro-  
11          ducer of such home.

12          “(2) ENERGY-EFFICIENT PROPERTY.—The  
13          term ‘energy-efficient property’ means any energy-  
14          efficient building envelope component, and any en-  
15          ergy-efficient heating or cooling equipment which  
16          can, individually or in combination with other com-  
17          ponents, meet the requirements of this section.

18          “(3) QUALIFIED NEW ENERGY-EFFICIENT  
19          HOME.—The term ‘qualified new energy-efficient  
20          home’ means a dwelling—

21                  “(A) located in the United States,

22                  “(B) the construction of which is substan-  
23                  tially completed after December 31, 2000,

24                  “(C) the original use of which is as a prin-  
25                  cipal residence (within the meaning of section

1           121) which commences with the person who ac-  
2           quires such dwelling from the eligible con-  
3           tractor, and

4           “(D) which is certified to have a projected  
5           level of annual heating and cooling energy con-  
6           sumption, measured in terms of average annual  
7           energy cost to the homeowner which is at  
8           least—

9           “(i) 30 percent less than the annual  
10          level of heating and cooling energy con-  
11          sumption of a reference dwelling con-  
12          structed in accordance with the standards  
13          of chapter 4 of the 2000 International En-  
14          ergy Conservation Code, or

15          “(ii) 50 percent less than such annual  
16          level of heating and cooling energy con-  
17          sumption.

18          “(4) CONSTRUCTION.—The term ‘construction’  
19          includes reconstruction and rehabilitation.

20          “(5) ACQUIRE.—The term ‘acquire’ includes  
21          purchase and, in the case of reconstruction and re-  
22          habilitation, such term includes a binding written  
23          contract for such reconstruction or rehabilitation.

24          “(6) BUILDING ENVELOPE COMPONENT.—The  
25          term ‘building envelope component’ means—

1           “(A) insulation material or system which is  
2           specifically and primarily designed to reduce the  
3           heat loss or gain of a dwelling when installed in  
4           or on such dwelling, and

5           “(B) exterior windows (including skylights)  
6           and doors.

7           “(7) MANUFACTURED HOME INCLUDED.—The  
8           term ‘dwelling’ includes a manufactured home con-  
9           forming to Federal Manufactured Home Construc-  
10          tion and Safety Standards (24 C.F.R. 3280).

11          “(d) CERTIFICATION.—

12           “(1) METHOD.—A certification described in  
13           subsection (c)(3)(D) shall be determined on the  
14           basis of 1 of the following methods:

15           “(A) A component-based method, using the  
16           applicable technical energy efficiency specifica-  
17           tions or ratings (including product labeling re-  
18           quirements) for the energy-efficient building en-  
19           velope component or energy-efficient heating or  
20           cooling equipment. The Secretary shall, in con-  
21           sultation with the Administrator of the Envi-  
22           ronmental Protection Agency, develop prescrip-  
23           tive component-based packages that are equiva-  
24           lent in energy performance to properties that  
25           qualify under subparagraph (B).

1           “(B) An energy performance-based method  
2           that calculates projected energy usage and cost  
3           reductions in the dwelling in relation to a ref-  
4           erence dwelling—

5                   “(i) heated by the same energy source  
6                   and heating system type, and

7                   “(ii) constructed in accordance with  
8                   the standards of chapter 4 of the 2000  
9                   International Energy Conservation Code.

10          Computer software shall be used in support of an  
11          energy performance-based method certification under  
12          subparagraph (B). Such software shall meet proce-  
13          dures and methods for calculating energy and cost  
14          savings in regulations promulgated by the Secretary  
15          of Energy. Such regulations on the specifications for  
16          software and verification protocols shall be based on  
17          the 1998 California Residential Alternative Calcula-  
18          tion Method Approval Manual.

19               “(2) PROVIDER.—Such certification shall be  
20          provided by—

21                   “(A) in the case of a method described in  
22                   paragraph (1)(A), a local building regulatory  
23                   authority, a utility, a manufactured home pro-  
24                   duction inspection primary inspection agency

1 (IPIA), or a home energy rating organization,  
2 or

3 “(B) in the case of a method described in  
4 paragraph (1)(B), an individual recognized by  
5 an organization designated by the Secretary for  
6 such purposes.

7 “(3) FORM.—

8 “(A) IN GENERAL.—Such certification  
9 shall be made in writing in a manner that  
10 specifies in readily verifiable fashion the energy-  
11 efficient building envelope components and en-  
12 ergy-efficient heating or cooling equipment in-  
13 stalled and their respective rated energy effi-  
14 ciency performance, and in the case of a meth-  
15 od described in paragraph (1)(B), accompanied  
16 by written analysis documenting the proper ap-  
17 plication of a permissible energy performance  
18 calculation method to the specific circumstances  
19 of such dwelling.

20 “(B) FORM PROVIDED TO BUYER.—A form  
21 documenting the energy-efficient building enve-  
22 lope components and energy-efficient heating or  
23 cooling equipment installed and their rated en-  
24 ergy efficiency performance shall be provided to  
25 the buyer of the dwelling. The form shall in-



1 include labeled R-value for insulation products,  
2 NFRC-labeled U-factor and Solar Heat Gain  
3 Coefficient for windows, skylights, and doors,  
4 labeled AFUE ratings for furnaces and boilers,  
5 labeled HSPF ratings for electric heat pumps,  
6 and labeled SEER ratings for air conditioners.

7 “(C) RATINGS LABEL AFFIXED IN DWELL-  
8 ING.—A permanent label documenting the rat-  
9 ings in subparagraph (B) shall be affixed to the  
10 front of the electrical distribution panel of the  
11 dwelling, or shall be otherwise permanently dis-  
12 played in a readily inspectable location in the  
13 dwelling.

14 “(4) REGULATIONS.—

15 “(A) IN GENERAL.—In prescribing regula-  
16 tions under this subsection for energy perform-  
17 ance-based certification methods, the Secretary,  
18 after examining the requirements for energy  
19 consultants and home energy ratings providers  
20 specified by the Mortgage Industry National  
21 Accreditation Procedures for Home Energy  
22 Rating Systems, shall prescribe procedures for  
23 calculating annual energy usage and cost reduc-  
24 tions for heating and cooling and for the report-  
25 ing of the results. Such regulations shall—

1                   “(i) provide that any calculation pro-  
2                   cedures be fuel neutral such that the same  
3                   energy efficiency measures allow a home to  
4                   qualify for the credit under this section re-  
5                   gardless of whether the dwelling uses a gas  
6                   or oil furnace or boiler or an electric heat  
7                   pump, and

8                   “(ii) require that any computer soft-  
9                   ware allow for the printing of the Federal  
10                  tax forms necessary for the credit under  
11                  this section and for the printing of forms  
12                  for disclosure to the homebuyer.

13                  “(B) PROVIDERS.—For purposes of para-  
14                  graph (2)(B), the Secretary shall establish re-  
15                  quirements for the designation of individuals  
16                  based on the requirements for energy consult-  
17                  ants and home energy raters specified by the  
18                  Mortgage Industry National Accreditation Pro-  
19                  cedures for Home Energy Rating Systems.

20                  “(e) BASIS ADJUSTMENT.—For purposes of this sub-  
21                  title, if a credit is allowed under this section for any ex-  
22                  penditure with respect to any property, the increase in the  
23                  basis of such property which would (but for this sub-  
24                  section) result from such expenditure shall be reduced by  
25                  the amount of the credit so allowed.

1       “(f) TERMINATION.—Subsection (a) shall apply to  
2 dwellings purchased during the period beginning on Janu-  
3 ary 1, 2001, and ending on December 31, 2005.”.

4       (b) CREDIT MADE PART OF GENERAL BUSINESS  
5 CREDIT.—Subsection (b) of section 38 (relating to current  
6 year business credit), as amended by section 103(d), is  
7 amended by striking “plus” at the end of paragraph (13),  
8 by striking the period at the end of paragraph (14) and  
9 inserting “, plus”, and by adding at the end the following:

10           “(15) the new energy-efficient home credit de-  
11 termined under section 45F.”.

12       (c) DENIAL OF DOUBLE BENEFIT.—Section 280C  
13 (relating to certain expenses for which credits are allow-  
14 able), as amended by section 103(c), is amended by adding  
15 at the end the following:

16       “(f) NEW ENERGY-EFFICIENT HOME EXPENSES.—  
17 No deduction shall be allowed for that portion of expenses  
18 for a new energy-efficient home otherwise allowable as a  
19 deduction for the taxable year which is equal to the  
20 amount of the credit determined for such taxable year  
21 under section 45F.”.

22       (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-  
23 IMUM TAX.—

24           (1) IN GENERAL.—Subsection (c) of section 38  
25 (relating to limitation based on amount of tax) is

1 amended by redesignating paragraph (3) as para-  
2 graph (4) and by inserting after paragraph (2) the  
3 following new paragraph:

4 “(3) SPECIAL RULES FOR NEW ENERGY EFFI-  
5 CIENT HOME CREDIT.—

6 “(A) IN GENERAL.—In the case of the new  
7 energy efficient home credit—

8 “(i) this section and section 39 shall  
9 be applied separately with respect to the  
10 credit, and

11 “(ii) in applying paragraph (1) to the  
12 credit—

13 “(I) subparagraphs (A) and (B)  
14 thereof shall not apply, and

15 “(II) the limitation under para-  
16 graph (1) (as modified by subclause  
17 (I)) shall be reduced by the credit al-  
18 lowed under subsection (a) for the  
19 taxable year (other than the new en-  
20 ergy efficient home credit).

21 “(B) NEW ENERGY EFFICIENT HOME  
22 CREDIT.—For purposes of this subsection, the  
23 term ‘new energy efficient home credit’ means  
24 the credit allowable under subsection (a) by rea-  
25 son of section 45F.”.

1           (2) CONFORMING AMENDMENT.—Subclause (II)  
 2           of section 38(c)(2)(A)(ii) is amended by inserting  
 3           “or the new energy efficient home credit” after “em-  
 4           ployment credit”.

5           (e) LIMITATION ON CARRYBACK.—Subsection (d) of  
 6           section 39, as amended by section 103(b), is amended by  
 7           adding at the end the following:

8                   “(12) NO CARRYBACK OF NEW ENERGY-EFFI-  
 9           CIENT HOME CREDIT BEFORE EFFECTIVE DATE.—  
 10          No portion of the unused business credit for any  
 11          taxable year which is attributable to the credit deter-  
 12          mined under section 45F may be carried back to any  
 13          taxable year ending before January 1, 2001.”.

14          (f) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
 15          CREDITS.—Subsection (c) of section 196 is amended by  
 16          striking “and” at the end of paragraph (7), by striking  
 17          the period at the end of paragraph (8) and inserting “,  
 18          and”, and by adding after paragraph (8) the following:

19                   “(9) the new energy-efficient home credit deter-  
 20          mined under section 45F.”.

21          (g) CLERICAL AMENDMENT.—The table of sections  
 22          for subpart D of part IV of subchapter A of chapter 1,  
 23          as amended by section 103(d), is amended by inserting  
 24          after the item relating to section 45E the following:

                  “Sec. 45F. New energy-efficient home credit.”.

1 (h) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years ending after De-  
 3 cember 31, 2000.

4 **SEC. 202. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**  
 5 **MENTS TO EXISTING HOMES.**

6 (a) IN GENERAL.—Subpart A of part IV of sub-  
 7 chapter A of chapter 1 (relating to nonrefundable personal  
 8 credits) is amended by inserting after section 25A the fol-  
 9 lowing new section:

10 **“SEC. 25B. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**  
 11 **ING HOMES.**

12 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
 13 dividual, there shall be allowed as a credit against the tax  
 14 imposed by this chapter for the taxable year an amount  
 15 equal to 20 percent of the amount paid or incurred by  
 16 the taxpayer for qualified energy efficiency improvements  
 17 installed during such taxable year.

18 “(b) LIMITATIONS.—

19 “(1) MAXIMUM CREDIT.—The credit allowed by  
 20 this section with respect to a dwelling shall not ex-  
 21 ceed \$2,000.

22 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER  
 23 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a  
 24 credit was allowed to the taxpayer under subsection  
 25 (a) with respect to a dwelling in 1 or more prior tax-

1       able years, the amount of the credit otherwise allow-  
2       able for the taxable year with respect to that dwell-  
3       ing shall not exceed the amount of \$2,000 reduced  
4       by the sum of the credits allowed under subsection  
5       (a) to the taxpayer with respect to the dwelling for  
6       all prior taxable years.

7       “(c) CARRYFORWARD OF UNUSED CREDIT.—If the  
8       credit allowable under subsection (a) exceeds the limita-  
9       tion imposed by section 26(a) for such taxable year re-  
10      duced by the sum of the credits allowable under subpart  
11      A of part IV of subchapter A (other than this section),  
12      such excess shall be carried to the succeeding taxable year  
13      and added to the credit allowable under subsection (a) for  
14      such taxable year.

15      “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-  
16      MENTS.—For purposes of this section, the term ‘qualified  
17      energy efficiency improvements’ means any energy effi-  
18      cient building envelope component which is certified to  
19      meet or exceed the prescriptive criteria for such compo-  
20      nent in the 2000 International Energy Conservation Code,  
21      or any combination of energy efficiency measures which  
22      achieves at least a 30 percent reduction in heating and  
23      cooling energy usage for the dwelling (as measured in  
24      terms of energy cost to the taxpayer), if—

1           “(1) such component or combinations of meas-  
2           ures is installed in or on a dwelling—

3                   “(A) located in the United States, and

4                   “(B) owned and used by the taxpayer as  
5           the taxpayer’s principal residence (within the  
6           meaning of section 121),

7           “(2) the original use of such component or com-  
8           bination of measures commences with the taxpayer,  
9           and

10           “(3) such component or combination of meas-  
11           ures reasonably can be expected to remain in use for  
12           at least 5 years.

13           “(e) CERTIFICATION.—The certification described in  
14           subsection (d) shall be—

15                   “(1) in the case of any component described in  
16           subsection (d), determined on the basis of applicable  
17           energy efficiency ratings (including product labeling  
18           requirements) for affected building envelope compo-  
19           nents,

20                   “(2) in the case of combinations of measures  
21           described in subsection (d), determined by the per-  
22           formance-based methods described in section  
23           45F(d),

24                   “(3) provided by a third party, such as a local  
25           building regulatory authority, a utility, a manufac-



1 tured home production inspection primary inspection  
2 agency (IPLA), or a home energy rating organiza-  
3 tion, consistent with the requirements of section  
4 45F(d)(2), and

5 “(4) made in writing on forms which specify in  
6 readily inspectable fashion the energy-efficient com-  
7 ponents and other measures and their respective ef-  
8 ficiency ratings, and which shall include a perma-  
9 nent label affixed to the electrical distribution panel  
10 as described in section 45F(d)(3)(C).

11 “(f) DEFINITIONS AND SPECIAL RULES.—

12 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
13 CUPANCY.—In the case of any dwelling unit which is  
14 jointly occupied and used during any calendar year  
15 as a residence by 2 or more individuals the following  
16 shall apply:

17 “(A) The amount of the credit allowable  
18 under subsection (a) by reason of expenditures  
19 for the qualified energy efficiency improvements  
20 made during such calendar year by any of such  
21 individuals with respect to such dwelling unit  
22 shall be determined by treating all of such indi-  
23 viduals as 1 taxpayer whose taxable year is  
24 such calendar year.

1           “(B) There shall be allowable with respect  
 2           to such expenditures to each of such individ-  
 3           uals, a credit under subsection (a) for the tax-  
 4           able year in which such calendar year ends in  
 5           an amount which bears the same ratio to the  
 6           amount determined under subparagraph (A) as  
 7           the amount of such expenditures made by such  
 8           individual during such calendar year bears to  
 9           the aggregate of such expenditures made by all  
 10          of such individuals during such calendar year.

11          “(2) TENANT-STOCKHOLDER IN COOPERATIVE  
 12          HOUSING CORPORATION.—In the case of an indi-  
 13          vidual who is a tenant-stockholder (as defined in sec-  
 14          tion 216) in a cooperative housing corporation (as  
 15          defined in such section), such individual shall be  
 16          treated as having paid his tenant-stockholder’s pro-  
 17          portionate share (as defined in section 216(b)(3)) of  
 18          the cost of qualified energy efficiency improvements  
 19          made by such corporation.

20          “(3) CONDOMINIUMS.—

21                 “(A) IN GENERAL.—In the case of an indi-  
 22                 vidual who is a member of a condominium man-  
 23                 agement association with respect to a condo-  
 24                 minium which he owns, such individual shall be  
 25                 treated as having paid his proportionate share

1 of the cost of qualified energy efficiency im-  
2 provements made by such association.

3 “(B) CONDOMINIUM MANAGEMENT ASSO-  
4 CIATION.—For purposes of this paragraph, the  
5 term ‘condominium management association’  
6 means an organization which meets the require-  
7 ments of paragraph (1) of section 528(c) (other  
8 than subparagraph (E) thereof) with respect to  
9 a condominium project substantially all of the  
10 units of which are used as residences.

11 “(4) BUILDING ENVELOPE COMPONENT.—The  
12 term ‘building envelope component’ means—

13 “(A) insulation material or system which is  
14 specifically and primarily designed to reduce the  
15 heat loss or gain of a dwelling when installed  
16 in or on such dwelling, and

17 “(B) exterior windows (including skylights)  
18 and doors.

19 “(5) MANUFACTURED HOMES INCLUDED.—For  
20 purposes of this section, the term ‘dwelling’ includes  
21 a manufactured home which conforms to Federal  
22 Manufactured Home Construction and Safety Stand-  
23 ards (24 C.F.R. 3280).

24 “(g) BASIS ADJUSTMENT.—For purposes of this sub-  
25 title, if a credit is allowed under this section for any ex-

1   penditure with respect to any property, the increase in the  
2   basis of such property which would (but for this sub-  
3   section) result from such expenditure shall be reduced by  
4   the amount of the credit so allowed.

5       “(h) TERMINATION.—Subsection (a) shall apply to  
6   qualified energy efficiency improvements installed during  
7   the period beginning on the date of the enactment of this  
8   section and ending on December 31, 2005.”.

9       (b) CONFORMING AMENDMENTS.—

10           (1) Subsection (c) of section 23 is amended by  
11   inserting “, section 25B, and section 1400C” after  
12   “other than this section”.

13           (2) Subparagraph (C) of section 25(e)(1) is  
14   amended by striking “section 23” and inserting  
15   “sections 23, 25B, and 1400C”.

16           (3) Subsection (d) of section 1400C is amended  
17   by inserting “and section 25B” after “other than  
18   this section”.

19           (4) Subsection (a) of section 1016, as amended  
20   by section 102(b), is amended by striking “and” at  
21   the end of paragraph (27), by striking the period at  
22   the end of paragraph (28) and inserting “; and”,  
23   and by adding at the end the following:

1 “(29) to the extent provided in section 25B(f),  
 2 in the case of amounts with respect to which a credit  
 3 has been allowed under section 25B.”.

4 (5) The table of sections for subpart A of part  
 5 IV of subchapter A of chapter 1 is amended by in-  
 6 serting after the item relating to section 25A the fol-  
 7 lowing new item:

“Sec. 25B. Energy efficiency improvements to existing homes.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
 9 this section shall apply to taxable years ending on or after  
 10 the date of the enactment of this Act.

11 **SEC. 203. CREDIT FOR RESIDENTIAL SOLAR, WIND, AND**  
 12 **FUEL CELL ENERGY PROPERTY.**

13 (a) IN GENERAL.—Subpart A of part IV of sub-  
 14 chapter A of chapter 1 (relating to nonrefundable personal  
 15 credits), as amended by section 201(a), is amended by in-  
 16 serting after section 25B the following:

17 **“SEC. 25C. RESIDENTIAL SOLAR, WIND, AND FUEL CELL EN-**  
 18 **ERGY PROPERTY.**

19 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
 20 dividual, there shall be allowed as a credit against the tax  
 21 imposed by this chapter for the taxable year an amount  
 22 equal to the sum of—

23 “(1) 15 percent of the qualified photovoltaic  
 24 property expenditures,

1           “(2) 15 percent of the qualified solar water  
2           heating property expenditures,

3           “(3) 30 percent of the qualified wind energy  
4           property expenditures, and

5           “(4) 20 percent for the qualified fuel cell prop-  
6           erty expenditures,

7           made by the taxpayer during the taxable year.

8           “(b) LIMITATIONS.—

9           “(1) MAXIMUM CREDIT.—The credit allowed  
10           under subsection (a)(2) shall not exceed \$2,000 for  
11           each system of solar energy property.

12           “(2) TYPE OF PROPERTY.—No expenditure may  
13           be taken into account under this section unless such  
14           expenditure is made by the taxpayer for property in-  
15           stalled on or in connection with a dwelling unit  
16           which is located in the United States and which is  
17           used as a residence.

18           “(3) SAFETY CERTIFICATIONS.—No credit shall  
19           be allowed under this section for an item of property  
20           unless—

21           “(A) in the case of solar water heating  
22           property, such property is certified for perform-  
23           ance and safety by the non-profit Solar Rating  
24           Certification Corporation or a comparable enti-

1           ty endorsed by the government of the State in  
2           which such property is installed, and

3           “(B) in the case of a photovoltaic, wind en-  
4           ergy, or fuel cell property, such property meets  
5           appropriate fire and electric code requirements.

6           “(c) DEFINITIONS.—For purposes of this section—

7           “(1) QUALIFIED SOLAR WATER HEATING PROP-  
8           PERTY EXPENDITURE.—The term ‘qualified solar  
9           water heating property expenditure’ means an ex-  
10          penditure for property which uses solar energy to  
11          heat water for use in a dwelling unit with respect to  
12          which a majority of the energy is derived from the  
13          sun.

14          “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-  
15          PENDITURE.—The term ‘qualified photovoltaic prop-  
16          erty expenditure’ means an expenditure for property  
17          which uses solar energy to generate electricity for  
18          use in a dwelling unit.

19          “(3) SOLAR PANELS.—No expenditure relating  
20          to a solar panel or other property installed as a roof  
21          (or portion thereof) shall fail to be treated as prop-  
22          erty described in paragraph (1) or (2) solely because  
23          it constitutes a structural component of the struc-  
24          ture on which it is installed.

1           “(4) QUALIFIED WIND ENERGY PROPERTY EX-  
2           PENDITURE.—The term ‘qualified wind energy prop-  
3           erty expenditure’ means an expenditure for property  
4           which uses wind energy to generate electricity for  
5           use in a dwelling unit.

6           “(5) QUALIFIED FUEL CELL PROPERTY EX-  
7           PENDITURE.—The term ‘qualified fuel cell property  
8           expenditure’ means an expenditure for property  
9           which uses an electrochemical fuel cell system to  
10          generate electricity for use in a dwelling unit.

11          “(6) LABOR COSTS.—Expenditures for labor  
12          costs properly allocable to the onsite preparation, as-  
13          sembly, or original installation of the property de-  
14          scribed in paragraph (1), (2), (4), or (5) and for  
15          piping or wiring to interconnect such property to the  
16          dwelling unit shall be taken into account for pur-  
17          poses of this section.

18          “(7) ENERGY STORAGE MEDIUM.—Expendi-  
19          tures which are properly allocable to a swimming  
20          pool, hot tub, or any other energy storage medium  
21          which has a function other than the function of such  
22          storage shall not be taken into account for purposes  
23          of this section.

24          “(d) SPECIAL RULES.—For purposes of this  
25          section—



1           “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
2           CUPANCY.—In the case of any dwelling unit which is  
3           jointly occupied and used during any calendar year  
4           as a residence by 2 or more individuals the following  
5           shall apply:

6                   “(A) The amount of the credit allowable  
7                   under subsection (a) by reason of expenditures  
8                   (as the case may be) made during such cal-  
9                   endar year by any of such individuals with re-  
10                  spect to such dwelling unit shall be determined  
11                  by treating all of such individuals as 1 taxpayer  
12                  whose taxable year is such calendar year.

13                   “(B) There shall be allowable with respect  
14                  to such expenditures to each of such individ-  
15                  uals, a credit under subsection (a) for the tax-  
16                  able year in which such calendar year ends in  
17                  an amount which bears the same ratio to the  
18                  amount determined under subparagraph (A) as  
19                  the amount of such expenditures made by such  
20                  individual during such calendar year bears to  
21                  the aggregate of such expenditures made by all  
22                  of such individuals during such calendar year.

23           “(2) TENANT-STOCKHOLDER IN COOPERATIVE  
24           HOUSING CORPORATION.—In the case of an indi-  
25           vidual who is a tenant-stockholder (as defined in sec-

tion 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(3) CONDOMINIUMS.—

“(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which such individual owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

“(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

“(4) JOINT OWNERSHIP OF ITEMS OF SOLAR OR WIND ENERGY PROPERTY.—

“(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure described in

1 paragraph (1), (2), or (4) of subsection (c) shall  
2 not be treated as failing to so qualify merely  
3 because such expenditure was made with re-  
4 spect to 2 or more dwelling units.

5 “(B) LIMITS APPLIED SEPARATELY.—In  
6 the case of any expenditure described in sub-  
7 paragraph (A), the amount of the credit allow-  
8 able under subsection (a) shall (subject to para-  
9 graph (1)) be computed separately with respect  
10 to the amount of the expenditure made for each  
11 dwelling unit.

12 “(5) ALLOCATION IN CERTAIN CASES.—If less  
13 than 80 percent of the use of an item is for nonbusi-  
14 ness residential purposes, only that portion of the  
15 expenditures for such item which is properly allo-  
16 cable to use for nonbusiness residential purposes  
17 shall be taken into account. For purposes of this  
18 paragraph, use for a swimming pool shall be treated  
19 as use which is not for residential purposes.

20 “(6) WHEN EXPENDITURE MADE; AMOUNT OF  
21 EXPENDITURE.—

22 “(A) IN GENERAL.—Except as provided in  
23 subparagraph (B), an expenditure with respect  
24 to an item shall be treated as made when the  
25 original installation of the item is completed.

1                   “(B) EXPENDITURES PART OF BUILDING  
2                   CONSTRUCTION.—In the case of an expenditure  
3                   in connection with the construction or recon-  
4                   struction of a structure, such expenditure shall  
5                   be treated as made when the original use of the  
6                   constructed or reconstructed structure by the  
7                   taxpayer begins.

8                   “(C) AMOUNT.—The amount of any ex-  
9                   penditure shall be the cost thereof.

10                  “(7) REDUCTION OF CREDIT FOR GRANTS, TAX-  
11                  EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANC-  
12                  ING.—The rules of section 29(b)(3) shall apply for  
13                  purposes of this section.

14                  “(e) BASIS ADJUSTMENTS.—For purposes of this  
15                  subtitle, if a credit is allowed under this section for any  
16                  expenditure with respect to any property, the increase in  
17                  the basis of such property which would (but for this sub-  
18                  section) result from such expenditure shall be reduced by  
19                  the amount of the credit so allowed.

20                  “(f) TERMINATION.—The credit allowed under this  
21                  section shall not apply to taxable years beginning after  
22                  December 31, 2011.”.

23                  (b) CONFORMING AMENDMENTS.—

24                         (1) Subsection (a) of section 1016, as amended  
25                         by section 201(b)(4), is amended by striking “and”

1 at the end of paragraph (28), by striking the period  
 2 at the end of paragraph (29) and inserting “; and”,  
 3 and by adding at the end the following:

4 “(30) to the extent provided in section 25C(e),  
 5 in the case of amounts with respect to which a credit  
 6 has been allowed under section 25C.”.

7 (2) The table of sections for subpart A of part  
 8 IV of subchapter A of chapter 1, as amended by sec-  
 9 tion 201(b)(2), is amended by inserting after the  
 10 item relating to section 25B the following:

“Sec. 25C. Residential solar, wind, and fuel cell energy prop-  
 erty.”.

11 (c) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to expenditures made after the  
 13 date of the enactment of this Act, in taxable years ending  
 14 after such date.

## 15 **TITLE III—ELECTRICITY**

## 16 **FACILITIES AND PRODUCTION**

### 17 **SEC. 301. INCENTIVE FOR DISTRIBUTED GENERATION.**

18 (a) DEPRECIATION OF DISTRIBUTED POWER PROP-  
 19 erty.—

20 (1) IN GENERAL.—Subparagraph (C) of section  
 21 168(e)(3) (relating to 7-year property) is amended  
 22 by redesignating clause (ii) as clause (iii) and by in-  
 23 serting after clause (i) the following:

1                   “(ii) any distributed power property,  
2                   and”.

3                   (2) 10-YEAR CLASS LIFE.—The table contained  
4                   in section 168(g)(3)(B) is amended by inserting  
5                   after the item relating to subparagraph (C)(i) the  
6                   following:

“ (C)(ii) ..... 10”.

7                   (b) DISTRIBUTED POWER PROPERTY.—Section  
8                   168(i) is amended by adding at the end the following:

9                   “(15) DISTRIBUTED POWER PROPERTY.—The  
10                  term ‘distributed power property’ means property—

11                   “(A) which is used in the generation of  
12                  electricity for primary use—

13                   “(i) in nonresidential real or residen-  
14                  tial rental property used in the taxpayer’s  
15                  trade or business, or

16                   “(ii) in the taxpayer’s industrial man-  
17                  ufacturing process or plant activity, with a  
18                  rated total capacity in excess of 500 kilo-  
19                  watts,

20                   “(B) which also may produce usable ther-  
21                  mal energy or mechanical power for use in a  
22                  heating or cooling application, as long as at  
23                  least 40 percent of the total useful energy pro-  
24                  duced consists of—

1 “(i) with respect to assets described in  
2 subparagraph (A)(i), electrical power  
3 (whether sold or used by the taxpayer), or

4 “(ii) with respect to assets described  
5 in subparagraph (A)(ii), electrical power  
6 (whether sold or used by the taxpayer) and  
7 thermal or mechanical energy used in the  
8 taxpayer’s industrial manufacturing proc-  
9 ess or plant activity,

10 “(C) which is not used to transport pri-  
11 mary fuel to the generating facility or to dis-  
12 tribute energy within or outside of the facility,  
13 and

14 “(D) where it is reasonably expected that  
15 not more than 50 percent of the produced elec-  
16 tricity will be sold to, or used by, unrelated per-  
17 sons.

18 For purposes of subparagraph (B), energy output is  
19 determined on the basis of expected annual output  
20 levels, measured in British thermal units (Btu),  
21 using standard conversion factors established by the  
22 Secretary.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to property placed in service after  
25 the date of the enactment of this Act.

1 **SEC. 302. MODIFICATIONS TO CREDIT FOR ELECTRICITY**  
2 **PRODUCED FROM RENEWABLE AND WASTE**  
3 **PRODUCTS.**

4 (a) INCREASE IN CREDIT RATE.—

5 (1) IN GENERAL.—Section 45(a)(1) is amended  
6 by striking “1.5 cents” and inserting “1.8 cents”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Section 45(b)(2) is amended by strik-  
9 ing “1.5 cent” and inserting “1.8 cent”.

10 (B) Section 45(d)(2)(B) is amended by in-  
11 serting “(calendar year 2001 in the case of the  
12 1.8 cent amount in subsection (a))” after  
13 “1992”.

14 (b) EXPANSION OF QUALIFIED RESOURCES.—

15 (1) IN GENERAL.—Section 45(c)(1) (relating to  
16 qualified energy resources) is amended by striking  
17 “and” at the end of subparagraph (B), by striking  
18 the period at the end of subparagraph (C) and in-  
19 serting “, and”, and by adding at the end the fol-  
20 lowing:

21 “(D) alternative resources.”.

22 (2) DEFINITION OF ALTERNATIVE RE-  
23 SOURCES.—Section 45(c) (relating to definitions) is  
24 amended—

25 (A) by redesignating paragraph (3) as  
26 paragraph (5),



1 (B) by redesignating paragraph (4) as  
2 paragraph (3), and

3 (C) by inserting after paragraph (3), as re-  
4 designated by subparagraph (B), the following:  
5 “(4) ALTERNATIVE RESOURCES.—

6 “(A) IN GENERAL.—The term ‘alternative  
7 resources’ means—

8 “(i) solar,

9 “(ii) biomass (other than closed loop  
10 biomass),

11 “(iii) municipal solid waste,

12 “(iv) incremental hydropower,

13 “(v) geothermal,

14 “(vi) landfill gas, and

15 “(vii) steel cogeneration.

16 “(B) BIOMASS.—The term ‘biomass’  
17 means any solid, nonhazardous, cellulosic waste  
18 material or any organic carbohydrate matter,  
19 which is segregated from other waste materials,  
20 and which is derived from—

21 “(i) any of the following forest-related  
22 resources: mill residues, precommercial  
23 thinnings, slash, and brush, but not includ-  
24 ing old-growth timber,

1 “(ii) waste pallets, crates, dunnage,  
2 untreated wood waste from construction or  
3 manufacturing activities, and landscape or  
4 right-of-way tree trimmings, but not in-  
5 cluding unsegregated municipal solid waste  
6 or post-consumer wastepaper, or

7 “(iii) any of the following agriculture  
8 sources: orchard tree crops, vineyard,  
9 grain, legumes, sugar, and other crop by-  
10 products or residues, including any pack-  
11 aging and other materials which are  
12 nontoxic and biodegradable and are associ-  
13 ated with the processing, feeding, selling,  
14 transporting, and disposal of such agricul-  
15 tural materials.

16 “(C) MUNICIPAL SOLID WASTE.—The term  
17 ‘municipal solid waste’ has the same meaning  
18 given the term ‘solid waste’ under section 2(27)  
19 of the Solid Waste Utilization Act (42 U.S.C.  
20 6903).

21 “(D) INCREMENTAL HYDROPOWER.—The  
22 term ‘incremental hydropower’ means additional  
23 generating capacity achieved from—

24 “(i) increased efficiency, or

25 “(ii) additions of new capacity,

1 at a licensed non-Federal hydroelectric project  
2 originally placed in service before the date of  
3 the enactment of this paragraph.

4 “(E) GEOTHERMAL.—The term ‘geo-  
5 thermal’ means energy derived from a geo-  
6 thermal deposit (within the meaning of section  
7 613(e)(2)), but only, in the case of electricity  
8 generated by geothermal power, up to (but not  
9 including) the electrical transmission stage.

10 “(F) LANDFILL GAS.—The term ‘landfill  
11 gas’ means gas generated from the decomposi-  
12 tion of any household solid waste, commercial  
13 solid waste, and industrial solid waste disposed  
14 of in a municipal solid waste landfill unit (as  
15 such terms are defined in regulations promul-  
16 gated under subtitle D of the Solid Waste Dis-  
17 posal Act (42 U.S.C. 6941 et seq.).

18 “(G) STEEL COGENERATION.—The term  
19 ‘steel cogeneration’ means the production of  
20 electricity and steam (or other form of thermal  
21 energy) from any or all waste sources defined  
22 in paragraphs (2) and (3) and subparagraphs  
23 (B) and (C) of this paragraph within an oper-  
24 ating facility which produces or integrates the  
25 production of coke, direct reduced iron ore,

iron, or steel provided that the cogeneration meets any regulatory energy-efficiency standards established by the Secretary, and only to the extent that such energy is produced from—

“(i) gases or heat generated from the production of metallurgical coke,

“(ii) gases or heat generated from the production of direct reduced iron ore or iron, from blast furnace or direct ironmaking processes, or

“(iii) gases or heat generated from the manufacture of steel.”.

(3) QUALIFIED FACILITY.—Section 45(c)(5) (defining qualified facility), as redesignated by paragraph 2(A), is amended by adding at the end the following:

“(D) ALTERNATIVE RESOURCES FACILITY.—

“(i) IN GENERAL.—Except as provided in clauses (ii), (iii), and (iv), in the case of a facility using alternative resources to produce electricity, the term ‘qualified facility’ means any facility of the taxpayer which is originally placed in serv-

1 ice after the date of the enactment of this  
2 subparagraph.

3 “(ii) BIOMASS FACILITY.—In the case  
4 of a facility using biomass described in  
5 paragraph (4)(A)(ii) to produce electricity,  
6 the term ‘qualified facility’ means any fa-  
7 cility of the taxpayer.

8 “(iii) GEOTHERMAL FACILITY.—In  
9 the case of a facility using geothermal to  
10 produce electricity, the term ‘qualified fa-  
11 cility’ means any facility of the taxpayer  
12 which is originally placed in service after  
13 December 31, 1992.

14 “(iv) STEEL COGENERATION FACILI-  
15 TIES.—In the case of a facility using steel  
16 cogeneration to produce electricity, the  
17 term ‘qualified facility’ means any facility  
18 permitted to operate under the environ-  
19 mental requirements of the Clean Air Act  
20 Amendments of 1990 which is owned by  
21 the taxpayer and originally placed in serv-  
22 ice after the date of the enactment of this  
23 subparagraph. Such a facility may be  
24 treated as originally placed in service when  
25 such facility was last upgraded to increase

1 efficiency or generation capability after  
2 such date.

3 “(v) SPECIAL RULES.—In the case of  
4 a qualified facility described in this sub-  
5 paragraph, the 10-year period referred to  
6 in subsection (a) shall be treated as begin-  
7 ning no earlier than the date of the enact-  
8 ment of this subparagraph.”.

9 (4) GOVERNMENT-OWNED FACILITY.—Section  
10 45(d)(6) (relating to credit eligibility in the case of  
11 government-owned facilities using poultry waste) is  
12 amended—

13 (A) by inserting “or alternative resources”  
14 after “poultry waste”, and

15 (B) by inserting “OR ALTERNATIVE RE-  
16 SOURCES” after “POULTRY WASTE” in the  
17 heading thereof.

18 (5) QUALIFIED FACILITIES WITH CO-PRODUC-  
19 TION.—Section 45(b) (relating to limitations and ad-  
20 justments) is amended by adding at the end the fol-  
21 lowing:

22 “(4) INCREASED CREDIT FOR CO-PRODUCTION  
23 FACILITIES.—

24 “(A) IN GENERAL.—In the case of a quali-  
25 fied facility described in subsection (c)(3)(D)(i)

1 which has a co-production facility or a qualified  
 2 facility described in subparagraph (A), (B), or  
 3 (C) of subsection (c)(3) which adds a co-pro-  
 4 duction facility after the date of the enactment  
 5 of this paragraph, the amount in effect under  
 6 subsection (a)(1) for an eligible taxable year of  
 7 a taxpayer shall (after adjustment under para-  
 8 graph (2) and before adjustment under para-  
 9 graphs (1) and (3)) be increased by .25 cents.

10 “(B) CO-PRODUCTION FACILITY.—For  
 11 purposes of subparagraph (A), the term ‘co-pro-  
 12 duction facility’ means a facility which—

13 “(i) enables a qualified facility to  
 14 produce heat, mechanical power, chemicals,  
 15 liquid fuels, or minerals from qualified en-  
 16 ergy resources in addition to electricity,  
 17 and

18 “(ii) produces such energy on a con-  
 19 tinuous basis.

20 “(C) ELIGIBLE TAXABLE YEAR.—For pur-  
 21 poses of subparagraph (A), the term ‘eligible  
 22 taxable year’ means any taxable year in which  
 23 the amount of gross receipts attributable to the  
 24 co-production facility of a qualified facility are  
 25 at least 10 percent of the amount of gross re-

1            ceipts attributable to electricity produced by  
2            such facility.”.

3            (6) QUALIFIED FACILITIES LOCATED WITHIN  
4            QUALIFIED INDIAN LANDS.—Section 45(b) (relating  
5            to limitations and adjustments), as amended by  
6            paragraph (5), is amended by adding at the end the  
7            following:

8            “(5) INCREASED CREDIT FOR QUALIFIED FA-  
9            CILITY LOCATED WITHIN QUALIFIED INDIAN  
10           LAND.—In the case of a qualified facility described  
11           in subsection (c)(3)(D) which—

12                    “(A) is located within—

13                            “(i) qualified Indian lands (as defined  
14                            in section 7871(c)(3)), or

15                            “(ii) lands which are held in trust by  
16                            a Native Corporation (as defined in section  
17                            3(m) of the Alaska Native Claims Settle-  
18                            ment Act (43 U.S.C. 1602(m)) for Alaska  
19                            Natives, and

20                    “(B) is operated with the explicit written  
21                    approval of the Indian tribal government or Na-  
22                    tive Corporation (as so defined) having jurisdic-  
23                    tion over such lands,

24            the amount in effect under subsection (a)(1) for a  
25            taxable year shall (after adjustment under para-



1 graphs (2) and (4) and before adjustment under  
 2 paragraphs (1) and (3)) be increased by .25 cents.”.

3 (7) ELECTRICITY PRODUCED FROM CERTAIN  
 4 RESOURCES CO-FIRED IN COAL PLANTS.—Section  
 5 45(d) (relating to definitions and special rules) is  
 6 amended by adding at the end the following:

7 “(8) SPECIAL RULE FOR ELECTRICITY PRO-  
 8 DUCED FROM CERTAIN RESOURCES CO-FIRED IN  
 9 COAL PLANTS.—In the case of electricity produced  
 10 from biomass (including closed loop biomass), mu-  
 11 nicipal solid waste, or animal waste, co-fired in a fa-  
 12 cility which produces electricity from coal—

13 “(A) subsection (a)(1) shall be applied by  
 14 substituting ‘1 cent’ for ‘1.8 cents’,

15 “(B) such facility shall be considered a  
 16 qualified facility for purposes of this section,  
 17 and

18 “(C) the 10-year period referred to in sub-  
 19 section (a) shall be treated as beginning no ear-  
 20 lier than the date of the enactment of this para-  
 21 graph.”.

22 (8) CONFORMING AMENDMENTS.—

23 (A) The heading for section 45 is amended  
 24 by inserting “**AND WASTE ENERGY**” after  
 25 “**RENEWABLE**”.

1 (B) The item relating to section 45 in the  
2 table of sections subpart D of part IV of sub-  
3 chapter A of chapter 1 is amended by inserting  
4 “and waste energy” after “renewable”.

5 (c) ADDITIONAL MODIFICATIONS OF RENEWABLE  
6 AND WASTE ENERGY RESOURCE CREDIT.—

7 (1) CREDITS FOR CERTAIN TAX EXEMPT ORGA-  
8 NIZATIONS AND GOVERNMENTAL UNITS.—Section  
9 45(d) (relating to definitions and special rules), as  
10 amended by subsection (b)(7), is amended by adding  
11 at the end the following:

12 “(9) CREDITS FOR CERTAIN TAX EXEMPT OR-  
13 GANIZATIONS AND GOVERNMENTAL UNITS.—

14 “(A) ALLOWANCE OF CREDIT.—Any credit  
15 which would be allowable under subsection (a)  
16 with respect to a qualified facility of an entity  
17 if such entity were not exempt from tax under  
18 this chapter shall be treated as a credit allow-  
19 able under subpart C to such entity if such en-  
20 tity is—

21 “(i) an organization described in sec-  
22 tion 501(c)(12)(C) and exempt from tax  
23 under section 501(a),

24 “(ii) an organization described in sec-  
25 tion 1381(a)(2)(C), or

1 “(iii) an entity the income of which is  
2 excludable from gross income under section  
3 115.

4 “(B) USE OF CREDIT.—

5 “(i) TRANSFER OF CREDIT.—An enti-  
6 ty described in subparagraph (A) may as-  
7 sign, trade, sell, or otherwise transfer any  
8 credit allowable to such entity under sub-  
9 paragraph (A) to any taxpayer.

10 “(ii) USE OF CREDIT AS AN OFF-  
11 SET.—Notwithstanding any other provision  
12 of law, in the case of an entity described  
13 in clause (i) or (ii) of subparagraph (A),  
14 any credit allowable to such entity under  
15 subparagraph (A) may be applied by such  
16 entity, without penalty, as a prepayment of  
17 any loan, debt, or other obligation the enti-  
18 ty has incurred under subchapter I of  
19 chapter 31 of title 7 of the Rural Elec-  
20 trification Act of 1936 (7 U.S.C. 901 et  
21 seq.).

22 “(C) CREDIT NOT INCOME.—Neither a  
23 transfer under clause (i) or a use under clause  
24 (ii) of subparagraph (B) of any credit allowable

1 under subparagraph (A) shall result in income  
2 for purposes of section 501(c)(12).

3 “(D) TRANSFER PROCEEDS TREATED AS  
4 ARISING FROM ESSENTIAL GOVERNMENT FUNC-  
5 TION.—Any proceeds derived by an entity de-  
6 scribed in subparagraph (A)(iii) from the trans-  
7 fer of any credit under subparagraph (B)(i)  
8 shall be treated as arising from an essential  
9 government function.

10 “(E) CREDITS NOT REDUCED BY TAX-EX-  
11 EMPT BONDS OR CERTAIN OTHER SUBSIDIES.—  
12 Subsection (b)(3) shall not apply to reduce any  
13 credit allowable under subparagraph (A) with  
14 respect to—

15 “(i) proceeds described in subpara-  
16 graph (A)(ii) of such subsection, or

17 “(ii) any loan, debt, or other obliga-  
18 tion incurred under subchapter I of chap-  
19 ter 31 of title 7 of the Rural Electrification  
20 Act of 1936 (7 U.S.C. 901 et seq.),

21 used to provide financing for any qualified facil-  
22 ity.

23 “(F) TREATMENT OF UNRELATED PER-  
24 SONS.—For purposes of this paragraph, sales  
25 among and between entities described in sub-

1 paragraph (A) shall be treated as sales between  
2 unrelated parties.”.

3 (2) COORDINATION WITH OTHER CREDITS.—  
4 Section 45(d), as amended by paragraph (1), is  
5 amended by adding at the end the following:

6 “(10) COORDINATION WITH OTHER CREDITS.—  
7 This section shall not apply to any qualified facility  
8 with respect to which a credit under any other sec-  
9 tion is allowed for the taxable year unless the tax-  
10 payer elects to waive the application of such credit  
11 to such facility.”.

12 (3) EXPANSION TO INCLUDE ANIMAL WASTE.—  
13 Section 45 (relating to electricity produced from cer-  
14 tain renewable resources), as amended by para-  
15 graphs (2) and (4) of subsection (b), is amended—

16 (A) by striking “poultry” each place it ap-  
17 pears in subsection (c)(1)(C) and subsection  
18 (d)(6) and inserting “animal”,

19 (B) by striking “POULTRY” in the heading  
20 of paragraph (6) of subsection (d) and inserting  
21 “ANIMAL”,

22 (C) by striking paragraph (3) of subsection  
23 (c) and inserting the following:

1           “(3) ANIMAL WASTE.—The term ‘animal waste’  
2       means poultry manure and litter and other animal  
3       wastes, including—

4           “(A) wood shavings, straw, rice hulls, and  
5       other bedding material for the disposition of  
6       manure, and

7           “(B) byproducts, packaging, and other ma-  
8       terials which are nontoxic and biodegradable  
9       and are associated with the processing, feeding,  
10      selling, transporting, and disposal of such ani-  
11      mal wastes.”, and

12          (D) by striking subparagraph (C) of sub-  
13      section (c)(5) and inserting the following:

14          “(C) ANIMAL WASTE FACILITY.—

15           “(i) IN GENERAL.—Except as pro-  
16      vided in clause (ii), in the case of a facility  
17      using animal waste (other than poultry) to  
18      produce electricity, the term ‘qualified fa-  
19      cility’ means any facility of the taxpayer  
20      which is originally placed in service after  
21      the date of the enactment of this clause.

22           “(ii) POULTRY WASTE.—In the case  
23      of a facility using animal waste relating to  
24      poultry to produce electricity, the term  
25      ‘qualified facility’ means any facility of the

1 taxpayer which is originally placed in serv-  
2 ice after December 31, 1999.”.

3 (4) TREATMENT OF QUALIFIED FACILITIES NOT  
4 IN COMPLIANCE WITH POLLUTION LAWS.—Section  
5 45(c)(5) (relating to qualified facilities), as amended  
6 by paragraphs (2) and (3) of subsection (b), is  
7 amended by adding at the end the following:

8 “(E) NONCOMPLIANCE WITH POLLUTION  
9 LAWS.—For purposes of this paragraph, a facil-  
10 ity which is not in compliance with the applica-  
11 ble State and Federal pollution prevention, con-  
12 trol, and permit requirements for any period of  
13 time shall not be considered to be a qualified  
14 facility during such period.”.

15 (5) PERMANENT EXTENSION OF QUALIFIED FA-  
16 CILITY DATES.—Section 45(c)(5) (relating to quali-  
17 fied facility), as redesignated by subsection (b)(2), is  
18 amended by striking “, and before January 1, 2002”  
19 in subparagraphs (A) and (B).

20 (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to electricity and other energy pro-  
22 duced after the date of the enactment of this Act.

1 **SEC. 303. TREATMENT OF FACILITIES USING BAGASSE TO**  
 2 **PRODUCE ENERGY AS SOLID WASTE DIS-**  
 3 **POSAL FACILITIES ELIGIBLE FOR TAX-EX-**  
 4 **EMPT FINANCING.**

5 (a) IN GENERAL.—Section 142 (relating to exempt  
 6 facility bond) is amended by adding at the end the fol-  
 7 lowing:

8 “(k) SOLID WASTE DISPOSAL FACILITIES.—For pur-  
 9 poses of subsection (a)(6), the term ‘solid waste disposal  
 10 facilities’ includes property located in Hawaii and used for  
 11 the collection, storage, treatment, utilization, processing,  
 12 or final disposal of bagasse in the manufacture of eth-  
 13 anol.”.

14 (b) EFFECTIVE DATE.—The amendment made by  
 15 this section shall apply to bonds issued after the date of  
 16 the enactment of this Act.

17 **SEC. 304. DEPRECIATION OF PROPERTY USED IN THE**  
 18 **TRANSMISSION OF ELECTRICITY.**

19 (a) DEPRECIATION OF PROPERTY USED IN THE  
 20 TRANSMISSION OF ELECTRICITY.—

21 (1) IN GENERAL.—Subparagraph (C) of section  
 22 168(e)(3) (relating to 7-year property), as amended  
 23 by section 301(a)(1), is amended by striking “and”  
 24 at the end of clause (ii), by redesignating clause (iii)  
 25 as clause (iv), and by inserting after clause (ii) the  
 26 following:



1 “(iii) any property used in the trans-  
2 mission of electricity, and”.

3 (2) 10-YEAR CLASS LIFE.—The table contained  
4 in section 168(g)(3)(B), as amended by section  
5 301(a)(2), is amended by inserting after the item re-  
6 lating to subparagraph (C)(ii) the following:

“(C)(iii) ..... 10”.

7 (b) DEFINITION OF PROPERTY USED IN THE TRANS-  
8 MISSION OF ELECTRICITY.—Section 168(i), as amended  
9 by section 301(b), is amended by adding at the end the  
10 following:

11 “(16) PROPERTY USED IN THE TRANSMISSION  
12 OF ELECTRICITY.—The term ‘property used in the  
13 transmission of electricity’ means property used in  
14 the transmission of electricity for sale.”.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to property placed in service after  
17 the date of the enactment of this Act.

## 18 **TITLE IV—INCENTIVES FOR** 19 **EARLY COMMERCIAL APPLI-** 20 **CATIONS OF ADVANCED** 21 **CLEAN COAL TECHNOLOGIES**

### 22 **SEC. 401. CREDIT FOR INVESTMENT IN QUALIFYING AD-** 23 **VANCED CLEAN COAL TECHNOLOGY.**

24 (a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN  
25 COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (re-

1 relating to amount of credit) is amended by striking “and”  
 2 at the end of paragraph (2), by striking the period at the  
 3 end of paragraph (3) and inserting “, and”, and by adding  
 4 at the end the following:

5           “(4) the qualifying advanced clean coal tech-  
 6 nology facility credit.”.

7           (b) AMOUNT OF QUALIFYING ADVANCED CLEAN  
 8 COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of  
 9 part IV of subchapter A of chapter 1 (relating to rules  
 10 for computing investment credit), as amended by section  
 11 101(a), is amended by inserting after section 48A the fol-  
 12 lowing:

13 **“SEC. 48B. QUALIFYING ADVANCED CLEAN COAL TECH-**  
 14 **NOLOGY FACILITY CREDIT.**

15           “(a) IN GENERAL.—For purposes of section 46, the  
 16 qualifying advanced clean coal technology facility credit  
 17 for any taxable year is an amount equal to 10 percent  
 18 of the qualified investment in a qualifying advanced clean  
 19 coal technology facility for such taxable year.

20           “(b) QUALIFYING ADVANCED CLEAN COAL TECH-  
 21 NOLOGY FACILITY.—

22           “(1) IN GENERAL.—For purposes of subsection  
 23 (a), the term ‘qualifying advanced clean coal tech-  
 24 nology facility’ means a facility of the taxpayer  
 25 which—

1           “(A)(i)(I) replaces a conventional tech-  
 2           nology facility of the taxpayer and the original  
 3           use of which commences with the taxpayer, or

4           “(II) is a retrofitted or repowered conven-  
 5           tional technology facility, the retrofitting or  
 6           repowering of which is completed by the tax-  
 7           payer (but only with respect to that portion of  
 8           the basis which is properly attributable to such  
 9           retrofitting or repowering), or

10           “(ii) is acquired through purchase (as de-  
 11           fined by section 179(d)(2)),

12           “(B) is depreciable under section 167,

13           “(C) has a useful life of not less than 4  
 14           years,

15           “(D) is located in the United States, and

16           “(E) uses qualifying advanced clean coal  
 17           technology.

18           “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—

19           For purposes of subparagraph (A) of paragraph (1),  
 20           in the case of a facility which—

21           “(A) is originally placed in service by a  
 22           person, and

23           “(B) is sold and leased back by such per-  
 24           son, or is leased to such person, within 3  
 25           months after the date such facility was origi-

1           nally placed in service, for a period of not less  
2           than 12 years,  
3           such facility shall be treated as originally placed in  
4           service not earlier than the date on which such prop-  
5           erty is used under the leaseback (or lease) referred  
6           to in subparagraph (B). The preceding sentence  
7           shall not apply to any property if the lessee and les-  
8           sor of such property make an election under this  
9           sentence. Such an election, once made, may be re-  
10          voked only with the consent of the Secretary.

11           “(3) QUALIFYING ADVANCED CLEAN COAL  
12          TECHNOLOGY.—For purposes of paragraph (1)—

13                   “(A) IN GENERAL.—The term ‘qualifying  
14                   advanced clean coal technology’ means, with re-  
15                   spect to clean coal technology—

16                           “(i) multiple applications, with a com-  
17                           bined capacity of not more than 2,000  
18                           megawatts, of advanced pulverized coal or  
19                           atmospheric fluidized bed combustion  
20                           technology—

21                                   “(I) installed as a new, retrofit,  
22                                   or repowering application,

23                                   “(II) operated between 2001 and  
24                                   2011, and

1 “(III) with a design net heat rate  
2 of not more than 9,500 Btu per kilo-  
3 watt hour when the design coal has a  
4 heat content of more than 8,000 Btu  
5 per pound, or a design net heat rate  
6 of not more than 9,900 Btu per kilo-  
7 watt hour when the design coal has a  
8 heat content of 8,000 Btu per pound  
9 or less,

10 “(ii) multiple applications, with a  
11 combined capacity of not more than 1,000  
12 megawatts, of pressurized fluidized bed  
13 combustion technology—

14 “(I) installed as a new, retrofit,  
15 or repowering application,

16 “(II) operated between 2001 and  
17 2015, and

18 “(III) with a design net heat rate  
19 of not more than 8,400 Btu per kilo-  
20 watt hour when the design coal has a  
21 heat content of more than 8,000 Btu  
22 per pound, or a design net heat rate  
23 of not more than 9,900 Btu per kilo-  
24 watt hour when the design coal has a

1 heat content of 8,000 Btu per pound  
2 or less,

3 “(iii) multiple applications, with a  
4 combined capacity of not more than 5,000  
5 megawatts, of integrated gasification com-  
6 bined cycle technology, with or without fuel  
7 or chemical co-production—

8 “(I) installed as a new, retrofit,  
9 or repowering application,

10 “(II) operated between 2001 and  
11 2015,

12 “(III) with a design net heat rate  
13 of not more than 8,550 Btu per kilo-  
14 watt hour when the design coal has a  
15 heat content of more than 8,000 Btu  
16 per pound, or a design net heat rate  
17 of not more than 9,900 Btu per kilo-  
18 watt hour when the design coal has a  
19 heat content of 8,000 Btu per pound  
20 or less, and

21 “(IV) with a net thermal effi-  
22 ciency on any fuel or chemical co-pro-  
23 duction of not less than 39 percent  
24 (higher heating value), and

1 “(iv) multiple applications, with a  
2 combined capacity of not more than 2,000  
3 megawatts of technology for the production  
4 of electricity—

5 “(I) installed as a new, retrofit,  
6 or repowering application,

7 “(II) operated between 2001 and  
8 2015, and

9 “(III) with a carbon emission  
10 rate which is not more than 85 per-  
11 cent of conventional technology.

12 “(B) EXCEPTIONS.—Such term shall not  
13 include clean coal technology projects receiving  
14 or scheduled to receive funding under the Clean  
15 Coal Technology Program of the Department of  
16 Energy.

17 “(C) CLEAN COAL TECHNOLOGY.—The  
18 term ‘clean coal technology’ means advanced  
19 technology which uses coal to produce 75 per-  
20 cent or more of its thermal output as electricity  
21 including advanced pulverized coal or atmos-  
22 pheric fluidized bed combustion, pressurized flu-  
23 idized bed combustion, integrated gasification  
24 combined cycle with or without fuel or chemical  
25 co-production, and any other technology for the

1 production of electricity which exceeds the per-  
2 formance of conventional technology.

3 “(D) CONVENTIONAL TECHNOLOGY.—The  
4 term ‘conventional technology’ means—

5 “(i) coal-fired combustion technology  
6 with a design net heat rate of not less than  
7 9,500 Btu per kilowatt hour (HHV) and a  
8 carbon equivalents emission rate of not  
9 more than 0.54 pounds of carbon per kilo-  
10 watt hour when the design coal has a heat  
11 content of more than 8,000 Btu per  
12 pound,

13 “(ii) coal-fired combustion technology  
14 with a design net heat rate of not less than  
15 10,500 Btu per kilowatt hour (HHV) and  
16 a carbon equivalents emission rate of not  
17 more than 0.60 pounds of carbon per kilo-  
18 watt hour when the design coal has a heat  
19 content of 8,000 Btu per pound or less, or

20 “(iii) natural gas-fired combustion  
21 technology with a design net heat rate of  
22 not less than 7,500 Btu per kilowatt hour  
23 (HHV) and a carbon equivalents emission  
24 rate of not more than 0.24 pounds of car-  
25 bon per kilowatt hour.



1           “(E) DESIGN NET HEAT RATE.—The de-  
2           sign net heat rate shall be based on the design  
3           annual heat input to and the design annual net  
4           electrical output from the qualifying advanced  
5           clean coal technology (determined without re-  
6           gard to such technology’s co-generation of  
7           steam).

8           “(F) SELECTION CRITERIA.—Selection cri-  
9           teria for clean coal technology facilities—

10           “(i) shall be established by the Sec-  
11           retary of Energy as part of a competitive  
12           solicitation,

13           “(ii) shall include primary criteria of  
14           minimum design net heat rate, maximum  
15           design thermal efficiency, and lowest cost  
16           to the government, and

17           “(iii) shall include supplemental cri-  
18           teria as determined appropriate by the  
19           Secretary of Energy.

20           “(4) NONCOMPLIANCE WITH POLLUTION  
21           LAWS.—For purposes of this subsection, a facility  
22           which is not in compliance with the applicable State  
23           and Federal pollution prevention, control, and per-  
24           mit requirements for any period of time shall not be

1       considered to be a qualifying advanced clean coal  
2       technology facility during such period.

3       “(c) QUALIFIED INVESTMENT.—For purposes of sub-  
4       section (a), the term ‘qualified investment’ means, with  
5       respect to any taxable year, the basis of a qualifying ad-  
6       vanced clean coal technology facility placed in service by  
7       the taxpayer during such taxable year.

8       “(d) QUALIFIED PROGRESS EXPENDITURES.—

9               “(1) INCREASE IN QUALIFIED INVESTMENT.—  
10       In the case of a taxpayer who has made an election  
11       under paragraph (5), the amount of the qualified in-  
12       vestment of such taxpayer for the taxable year (de-  
13       termined under subsection (c) without regard to this  
14       section) shall be increased by an amount equal to  
15       the aggregate of each qualified progress expenditure  
16       for the taxable year with respect to progress expend-  
17       iture property.

18               “(2) PROGRESS EXPENDITURE PROPERTY DE-  
19       FINED.—For purposes of this subsection, the term  
20       ‘progress expenditure property’ means any property  
21       being constructed by or for the taxpayer and which  
22       it is reasonable to believe will qualify as a qualifying  
23       advanced clean coal technology facility which is  
24       being constructed by or for the taxpayer when it is  
25       placed in service.

1           “(3) QUALIFIED PROGRESS EXPENDITURES DE-  
2       FINED.—For purposes of this subsection—

3           “(A) SELF-CONSTRUCTED PROPERTY.—In  
4       the case of any self-constructed property, the  
5       term ‘qualified progress expenditures’ means  
6       the amount which, for purposes of this subpart,  
7       is properly chargeable (during such taxable  
8       year) to capital account with respect to such  
9       property.

10          “(B) NONSELF-CONSTRUCTED PROP-  
11       ERTY.—In the case of nonself-constructed prop-  
12       erty, the term ‘qualified progress expenditures’  
13       means the amount paid during the taxable year  
14       to another person for the construction of such  
15       property.

16          “(4) OTHER DEFINITIONS.—For purposes of  
17       this subsection—

18          “(A) SELF-CONSTRUCTED PROPERTY.—  
19       The term ‘self-constructed property’ means  
20       property for which it is reasonable to believe  
21       that more than half of the construction expendi-  
22       tures will be made directly by the taxpayer.

23          “(B) NONSELF-CONSTRUCTED PROP-  
24       ERTY.—The term ‘nonself-constructed property’

1 means property which is not self-constructed  
2 property.

3 “(C) CONSTRUCTION, ETC.—The term  
4 ‘construction’ includes reconstruction and erec-  
5 tion, and the term ‘constructed’ includes recon-  
6 structed and erected.

7 “(D) ONLY CONSTRUCTION OF QUALI-  
8 FYING ADVANCED CLEAN COAL TECHNOLOGY  
9 FACILITY TO BE TAKEN INTO ACCOUNT.—Con-  
10 struction shall be taken into account only if, for  
11 purposes of this subpart, expenditures therefor  
12 are properly chargeable to capital account with  
13 respect to the property.

14 “(5) ELECTION.—An election under this sub-  
15 section may be made at such time and in such man-  
16 ner as the Secretary may by regulations prescribe.  
17 Such an election shall apply to the taxable year for  
18 which made and to all subsequent taxable years.  
19 Such an election, once made, may not be revoked ex-  
20 cept with the consent of the Secretary.

21 “(e) CREDITS FOR CERTAIN TAX EXEMPT ORGANI-  
22 ZATIONS AND GOVERNMENTAL UNITS.—

23 “(1) ALLOWANCE OF CREDIT.—Any credit  
24 which would be allowable under subsection (a) with  
25 respect to a qualifying advanced clean coal tech-

1 nology facility of an entity if such entity were not  
2 exempt from tax under this chapter shall be treated  
3 as a credit allowable under subpart C to such entity  
4 if such entity is—

5 “(A) an organization described in section  
6 501(c)(12)(C) and exempt from tax under sec-  
7 tion 501(a),

8 “(B) an organization described in section  
9 1381(a)(2)(C),

10 “(C) an entity the income of which is ex-  
11 cludable from gross income under section 115,  
12 or

13 “(D) the Tennessee Valley Authority.

14 “(2) USE OF CREDIT.—

15 “(A) TRANSFER OF CREDIT.—An entity  
16 described in subparagraph (A), (B), or (C) of  
17 paragraph (1) may assign, trade, sell, or other-  
18 wise transfer any credit allowable to such entity  
19 under paragraph (1) to any taxpayer.

20 “(B) USE OF CREDIT AS AN OFFSET.—  
21 Notwithstanding any other provision of law, in  
22 the case of an entity described in subparagraph  
23 (A) or (B) of paragraph (1), any credit allow-  
24 able to such entity under paragraph (1) may be  
25 applied by such entity, without penalty, as a

1       prepayment of any loan, debt, or other obliga-  
2       tion the entity has incurred under subchapter I  
3       of chapter 31 of title 7 of the Rural Electrifica-  
4       tion Act of 1936 (7 U.S.C. 901 et seq.).

5               “(C) USE BY TVA.—

6               “(i) IN GENERAL.—Notwithstanding  
7       any other provision of law, in the case of  
8       an entity described in paragraph (1)(D),  
9       any credit allowable under paragraph (1)  
10      to such entity may be applied as a credit  
11      against the payments required to be made  
12      in any fiscal year under section 15d(e) of  
13      the Tennessee Valley Authority Act of  
14      1933 (16 U.S.C. 831n–4(e)) as an annual  
15      return on the appropriations investment  
16      and an annual repayment sum.

17              “(ii) TREATMENT OF CREDITS.—The  
18      aggregate amount of credits described in  
19      paragraph (1) shall be treated in the same  
20      manner and to the same extent as if such  
21      credits were a payment in cash and shall  
22      be applied first against the annual return  
23      on the appropriations investment.

24              “(iii) CREDIT CARRYOVER.—With re-  
25      spect to any fiscal year, if the aggregate

1 amount of credits described in paragraph  
2 (1) exceeds the aggregate amount of pay-  
3 ment obligations described in clause (i),  
4 the excess amount shall remain available  
5 for application as credits against the  
6 amounts of such payment obligations in  
7 succeeding fiscal years in the same manner  
8 as described in this subparagraph.

9 “(3) CREDIT NOT INCOME.—Neither a transfer  
10 under subparagraph (A) or a use under subpara-  
11 graph (B) of paragraph (2) of any credit allowable  
12 under paragraph (1) shall result in income for pur-  
13 poses of section 501(c)(12).

14 “(4) TRANSFER PROCEEDS TREATED AS ARISING  
15 FROM ESSENTIAL GOVERNMENT FUNCTION.—  
16 Any proceeds derived by an entity described in para-  
17 graph (1)(C) from the transfer of any credit under  
18 paragraph (2)(A) shall be treated as arising from an  
19 essential government function.

20 “(f) COORDINATION WITH OTHER CREDITS.—This  
21 section shall not apply to any property with respect to  
22 which the rehabilitation credit under section 47 or the en-  
23 ergy credit under section 48A is allowed unless the tax-  
24 payer elects to waive the application of such credit to such  
25 property.

1       “(g) TERMINATION.—This section shall not apply  
2 with respect to any qualified investment made more than  
3 10 years after the effective date of this section.”.

4       (c) RECAPTURE.—Section 50(a) (relating to other  
5 special rules) is amended by adding at the end the fol-  
6 lowing:

7               “(6) SPECIAL RULES RELATING TO QUALIFYING  
8       ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—  
9       For purposes of applying this subsection in the case  
10      of any credit allowable by reason of section 48B, the  
11      following shall apply:

12               “(A) GENERAL RULE.—In lieu of the  
13      amount of the increase in tax under paragraph  
14      (1), the increase in tax shall be an amount  
15      equal to the investment tax credit allowed under  
16      section 38 for all prior taxable years with re-  
17      spect to a qualifying advanced clean coal tech-  
18      nology facility (as defined by section 48B(b)(1))  
19      multiplied by a fraction whose numerator is the  
20      number of years remaining to fully depreciate  
21      under this title the qualifying advanced clean  
22      coal technology facility disposed of, and whose  
23      denominator is the total number of years over  
24      which such facility would otherwise have been  
25      subject to depreciation. For purposes of the



preceding sentence, the year of disposition of the qualifying advanced clean coal technology facility property shall be treated as a year of remaining depreciation.

“(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology facility under section 48B, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

“(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology facility.”.

(d) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by section 201(e), is amended by adding at the end the following:

“(13) NO CARRYBACK OF SECTION 48B CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is

1       attributable to the qualifying advanced clean coal  
 2       technology facility credit determined under section  
 3       48B may be carried back to a taxable year ending  
 4       before January 1, 2002.”.

5       (e) TECHNICAL AMENDMENTS.—

6           (1) Section 49(a)(1)(C) is amended by striking  
 7       “and” at the end of clause (ii), by striking the pe-  
 8       riod at the end of clause (iii) and inserting “, and”,  
 9       and by adding at the end the following:

10                   “(iv) the portion of the basis of any  
 11                   qualifying advanced clean coal technology  
 12                   facility attributable to any qualified invest-  
 13                   ment (as defined by section 48B(c)).”.

14           (2) Section 50(a)(4) is amended by striking  
 15       “and (2)” and inserting “(2), and (6)”.

16           (3) Section 50(c) is amended by adding at the  
 17       end the following:

18                   “(6) NONAPPLICATION.—Paragraphs (1) and  
 19                   (2) shall not apply to any advanced clean coal tech-  
 20                   nology facility credit under section 48B.”.

21           (4) The table of sections for subpart E of part  
 22       IV of subchapter A of chapter 1, as amended by sec-  
 23       tion 101(c), is amended by inserting after the item  
 24       relating to section 48A the following:

“Sec. 48B. Qualifying advanced clean coal technology facility credit.”.

1 (f) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to periods after December 31,  
 3 2001, under rules similar to the rules of section 48(m)  
 4 of the Internal Revenue Code of 1986 (as in effect on the  
 5 day before the date of the enactment of the Revenue Rec-  
 6 onciliation Act of 1990).

7 **SEC. 402. CREDIT FOR PRODUCTION FROM QUALIFYING**  
 8 **ADVANCED CLEAN COAL TECHNOLOGY.**

9 (a) CREDIT FOR PRODUCTION FROM QUALIFYING  
 10 ADVANCED CLEAN COAL TECHNOLOGY.—Subpart D of  
 11 part IV of subchapter A of chapter 1 of the Internal Rev-  
 12 enue Code of 1986 (relating to business related credits),  
 13 as amended by section 201(a), is amended by adding at  
 14 the end the following:

15 **“SEC. 45G. CREDIT FOR PRODUCTION FROM QUALIFYING**  
 16 **ADVANCED CLEAN COAL TECHNOLOGY.**

17 “(a) GENERAL RULE.—For purposes of section 38,  
 18 the qualifying advanced clean coal technology production  
 19 credit of any taxpayer for any taxable year is equal to—

20 “(1) the applicable amount of advanced clean  
 21 coal technology production credit, multiplied by

22 “(2) the sum of—

23 “(A) the kilowatt hours of electricity, plus

24 “(B) each 3,413 Btu of fuels or chemicals,

1 produced by the taxpayer during such taxable year  
 2 at a qualifying advanced clean coal technology facil-  
 3 ity during the 10-year period beginning on the date  
 4 the facility was originally placed in service.

5 “(b) APPLICABLE AMOUNT.—For purposes of this  
 6 section, the applicable amount of advanced clean coal tech-  
 7 nology production credit with respect to production from  
 8 a qualifying advanced clean coal technology facility shall  
 9 be determined as follows:

10 “(1) Where the design coal has a heat content  
 11 of more than 8,000 Btu per pound:

12 “(A) In the case of a facility originally  
 13 placed in service before 2008, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400 .....	\$.0050	\$.0030
More than 8,400 but not more than 8,550 .....	\$.0010	\$.0010
More than 8,550 but not more than 8,750 .....	\$.0005	\$.0005.

14 “(B) In the case of a facility originally  
 15 placed in service after 2007 and before 2012,  
 16 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770 .....	\$.0090	\$.0075
More than 7,770 but not more than 8,125 .....	\$.0070	\$.0050
More than 8,125 but not more than 8,350 .....	\$.0060	\$.0040.

1 “(C) In the case of a facility originally  
 2 placed in service after 2011 and before 2015,  
 3 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380 .....	\$.0120	\$.0090
More than 7,380 but not more than 7,720 .....	\$.0095	\$.0070.

4 “(2) Where the design coal has a heat content  
 5 of not more than 8,000 Btu per pound:

6 “(A) In the case of a facility originally  
 7 placed in service before 2008, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500 .....	\$.0050	\$.0030
More than 8,500 but not more than 8,650 .....	\$.0010	\$.0010
More than 8,650 but not more than 8,750 .....	\$.0005	\$.0005.

8 “(B) In the case of a facility originally  
 9 placed in service after 2007 and before 2012,  
 10 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000 .....	\$.0090	\$.0075
More than 8,000 but not more than 8,250 .....	\$.0070	\$.0050
More than 8,250 but not more than 8,400 .....	\$.0060	\$.0040.

11 “(C) In the case of a facility originally  
 12 placed in service after 2011 and before 2015,  
 13 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800 .....	\$.0120	\$.0090

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
More than 7,800 but not more than 7,950 .....	\$.0095	\$.0070.

1                   “(3) Where the clean coal technology facility is  
2                   producing fuel or chemicals:

3                   “(A) In the case of a facility originally  
4                   placed in service before 2008, if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent .....	\$.0050	\$.0030
Less than 40.6 but not less than 40 percent .....	\$.0010	\$.0010
Less than 40 but not less than 39 percent .....	\$.0005	\$.0005.

5                   “(B) In the case of a facility originally  
6                   placed in service after 2007 and before 2012,  
7                   if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent .....	\$.0090	\$.0075
Less than 43.9 but not less than 42 percent .....	\$.0070	\$.0050
Less than 42 but not less than 40.9 percent .....	\$.0060	\$.0040.

8                   “(C) In the case of a facility originally  
9                   placed in service after 2011 and before 2015,  
10                  if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent .....	\$.0120	\$.0090
Less than 44.2 but not less than 43.6 percent .....	\$.0095	\$.0070.

11                  “(c) INFLATION ADJUSTMENT FACTOR.—For cal-  
12                  endar years after 2001, each amount in paragraphs (1),

1 (2), and (3) shall be adjusted by multiplying such amount  
2 by the inflation adjustment factor for the calendar year  
3 in which the amount is applied. If any amount as in-  
4 creased under the preceding sentence is not a multiple of  
5 0.01 cent, such amount shall be rounded to the nearest  
6 multiple of 0.01 cent.

7 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
8 poses of this section—

9 “(1) IN GENERAL.—Any term used in this sec-  
10 tion which is also used in section 48B shall have the  
11 meaning given such term in section 48B.

12 “(2) APPLICABLE RULES.—The rules of para-  
13 graphs (3), (4), and (5) of section 45(d) and section  
14 48B(e) shall apply.

15 “(3) INFLATION ADJUSTMENT FACTOR.—The  
16 term ‘inflation adjustment factor’ means, with re-  
17 spect to a calendar year, a fraction the numerator  
18 of which is the GDP implicit price deflator for the  
19 preceding calendar year and the denominator of  
20 which is the GDP implicit price deflator for the cal-  
21 endar year 2000.

22 “(4) GDP IMPLICIT PRICE DEFLATOR.—The  
23 term ‘GDP implicit price deflator’ means the most  
24 recent revision of the implicit price deflator for the  
25 gross domestic product as computed by the Depart-

1       ment of Commerce before March 15 of the calendar  
2       year.”.

3       (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
4       tion 38(b), as amended by section 201(b), is amended by  
5       striking “plus” at the end of paragraph (14), by striking  
6       the period at the end of paragraph (15) and inserting “,  
7       plus”, and by adding at the end the following:

8               “(16) the qualifying advanced clean coal tech-  
9       nology production credit determined under section  
10       45G(a).”.

11       (c) TRANSITIONAL RULE.—Section 39(d) (relating to  
12       transitional rules), as amended by section 401(d), is  
13       amended by adding at the end the following:

14               “(14) NO CARRYBACK OF SECTION 45G CREDIT  
15       BEFORE EFFECTIVE DATE.—No portion of the un-  
16       used business credit for any taxable year which is  
17       attributable to the qualifying advanced clean coal  
18       technology production credit determined under sec-  
19       tion 45G may be carried back to a taxable year end-  
20       ing before the date of the enactment of section  
21       45G.”.

22       (d) CLERICAL AMENDMENT.—The table of sections  
23       for subpart D of part IV of subchapter A of chapter 1,  
24       as amended by section 201(g), is amended by adding at  
25       the end the following:



“Sec. 45G. Credit for production from qualifying advanced clean coal technology.”.

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to production after the date of the  
3 enactment of this Act.

4       **SEC. 403. RISK POOL FOR QUALIFYING ADVANCED CLEAN**  
5                                   **COAL TECHNOLOGY.**

6       (a) ESTABLISHMENT.—The Secretary of the Treas-  
7 ury shall establish a financial risk pool which shall be  
8 available to any United States owner of a qualifying ad-  
9 vanced clean coal technology which has qualified for an  
10 advanced clean coal technology production credit (as de-  
11 fined in section 45G of the Internal Revenue Code of  
12 1986, as added by section 402) to offset for the first 3  
13 years of the operation of such technology the costs (not  
14 to exceed 5 percent of the total cost of installation) for  
15 modifications resulting from the technology’s failure to  
16 achieve its design performance.

17       (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
18 authorized to be appropriated such sums as are necessary  
19 to carry out the purposes of this section.

1     **TITLE V—HEATING FUELS AND**  
2                     **STORAGE.**

3     **SEC. 501. FULL EXPENSING OF HOME HEATING OIL AND**  
4                     **PROPANE STORAGE FACILITIES.**

5             (a) IN GENERAL.—Section 179(b) (relating to limita-  
6     tions) is amended by adding at the end the following:

7                     “(5) FULL EXPENSING OF HOME HEATING OIL  
8     AND PROPANE STORAGE FACILITIES.—Paragraphs  
9     (1) and (2) shall not apply to section 179 property  
10    which is any storage facility (not including a build-  
11    ing or its structural components) used in connection  
12    with the distribution of home heating oil or liquefied  
13    petroleum gas.”.

14            (b) EFFECTIVE DATE.—The amendment made by  
15    this section shall apply to property placed in service on  
16    or after the date of the enactment of this Act.

17     **SEC. 502. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**  
18                     **MENTS FOR NATURAL GAS AND OTHER COM-**  
19                     **MODITIES.**

20            (a) IN GENERAL.—Subsection (b) of section 148 (de-  
21    fining higher yielding investments) is amended by adding  
22    at the end the following:

23                     “(4) INVESTMENT PROPERTY NOT TO INCLUDE  
24    CERTAIN PREPAYMENTS TO ENSURE COMMODITY  
25    SUPPLY.—The term ‘investment property’ shall not

1 include a prepayment entered into for the purpose of  
 2 obtaining a supply of a commodity reasonably ex-  
 3 pected to be used in a business of one or more utili-  
 4 ties each of which is owned and operated by a State  
 5 or local government, any political subdivision or in-  
 6 strumentality thereof, or any governmental unit act-  
 7 ing for or on behalf of such a utility.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
 9 this section shall apply to obligations issued after the date  
 10 of the enactment of this Act.

11 **SEC. 503. PRIVATE LOAN FINANCING TEST NOT TO APPLY**  
 12 **TO PREPAYMENTS FOR NATURAL GAS AND**  
 13 **OTHER COMMODITIES.**

14 (a) IN GENERAL.—Section 141(c)(2) (providing ex-  
 15 ceptions to the private loan financing test) is amended by  
 16 striking “or” at the end of subparagraph (A), by striking  
 17 the period at the end of subparagraph (B) and inserting  
 18 “, or”, and by adding at the end the following:

19 “(C) arises from a transaction described in  
 20 section 148(b)(4).”.

21 (b) EFFECTIVE DATE.—The amendments made by  
 22 this section shall apply to obligations issued after the date  
 23 of the enactment of this Act.

**TITLE VI—OIL AND GAS  
PRODUCTION**

**SEC. 601. CREDIT FOR PRODUCTION OF RE-REFINED LUBRICATING OIL.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 402(a), is amended by adding at the end the following:

**“SEC. 45H. CREDIT FOR PRODUCING RE-REFINED LUBRICATING OIL.**

“(a) GENERAL RULE.—For purposes of section 38, the re-refined lubricating oil production credit of any taxpayer for any taxable year is equal to \$4.05 per barrel of qualified re-refined lubricating oil production which is attributable to the taxpayer (within the meaning of section 29(d)(3)).

“(b) QUALIFIED RE-REFINED LUBRICATING OIL PRODUCTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified re-refined lubricating oil production’ means a base oil manufactured from at least 95 percent used oil and not more than 2 percent of previously unused oil by a re-refining process at a qualified facility which effectively removes physical and chemical impurities and spent and unspent additives to the extent that

1       such base oil meets industry standards for engine oil  
2       as defined by the American Petroleum Institute doc-  
3       ument API 1509 as in effect on the date of the en-  
4       actment of this section.

5               “(2) LIMITATION ON AMOUNT OF PRODUCTION  
6       WHICH MAY QUALIFY.—Re-refined lubricating oil  
7       produced during any taxable year shall not be treat-  
8       ed as qualified re-refined lubricating oil production  
9       but only to the extent average daily production dur-  
10      ing the taxable year exceeds 7,000 barrels.

11              “(3) BARREL.—The term ‘barrel’ has the  
12      meaning given such term by section 613A(e)(4).

13              “(4) NONCOMPLIANCE WITH POLLUTION  
14      LAWS.—For purposes of paragraph (1), a facility  
15      which is not in compliance with the applicable State  
16      and Federal pollution prevention, control, and per-  
17      mit requirements for any period of time shall not be  
18      considered to be a qualified facility during such pe-  
19      riod.

20              “(c) INFLATION ADJUSTMENT.—In the case of any  
21      taxable year beginning in a calendar year after 2001, the  
22      dollar amount contained in subsection (a) shall be in-  
23      creased to an amount equal to such dollar amount multi-  
24      plied by the inflation adjustment factor for such calendar

1 year (determined under section 29(d)(2)(B) by substituting ‘2000’ for ‘1979’).”.

3 (b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 402(b), is amended by striking ‘plus’ at the end of paragraph (15), by striking the period at the end of paragraph (16), and inserting ‘, plus’, and by adding at the end the following:

9 “(17) the re-refined lubricating oil production credit determined under section 45H(a).”.

11 (c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 402(d), is amended by adding at the end the following:

“Sec. 45H. Credit for producing re-refined lubricating oil.”.

15 (d) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act.

18 **SEC. 602. OIL AND GAS FROM MARGINAL WELLS.**

19 (a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by section 601(a), is amended by adding at the end the following:

1   **“SEC. 45I. CREDIT FOR PRODUCING OIL AND GAS FROM**  
2                   **MARGINAL WELLS.**

3           “(a) GENERAL RULE.—For purposes of section 38,  
4 the marginal well production credit for any taxable year  
5 is an amount equal to the product of—

6                   “(1) the credit amount, and

7                   “(2) the qualified credit oil production and the  
8 qualified natural gas production which is attrib-  
9 utable to the taxpayer.

10          “(b) CREDIT AMOUNT.—For purposes of this  
11 section—

12                   “(1) IN GENERAL.—The credit amount is—

13                           “(A) \$3 per barrel of qualified crude oil  
14 production, and

15                           “(B) 50 cents per 1,000 cubic feet of  
16 qualified natural gas production.

17                   “(2) REDUCTION AS OIL AND GAS PRICES IN-  
18 CREASE.—

19                           “(A) IN GENERAL.—The \$3 and 50 cents  
20 amounts under paragraph (1) shall each be re-  
21 duced (but not below zero) by an amount which  
22 bears the same ratio to such amount (deter-  
23 mined without regard to this paragraph) as—

24                                   “(i) the excess (if any) of the applica-  
25 ble reference price over \$14 (\$1.56 for  
26 qualified natural gas production), bears to

1 “(ii) \$3 (\$0.33 for qualified natural  
2 gas production).

3 The applicable reference price for a taxable  
4 year is the reference price of the calendar year  
5 preceding the calendar year in which the tax-  
6 able year begins.

7 “(B) INFLATION ADJUSTMENT.—In the  
8 case of any taxable year beginning in a calendar  
9 year after 2001, each of the dollar amounts  
10 contained in subparagraph (A) shall be in-  
11 creased to an amount equal to such dollar  
12 amount multiplied by the inflation adjustment  
13 factor for such calendar year (determined under  
14 section 43(b)(3)(B) by substituting ‘2000’ for  
15 ‘1990’).

16 “(C) REFERENCE PRICE.—For purposes of  
17 this paragraph, the term ‘reference price’  
18 means, with respect to any calendar year—

19 “(i) in the case of qualified crude oil  
20 production, the reference price determined  
21 under section 29(d)(2)(C), and

22 “(ii) in the case of qualified natural  
23 gas production, the Secretary’s estimate of  
24 the annual average wellhead price per



1                   1,000 cubic feet for all domestic natural  
2                   gas.

3           “(c) QUALIFIED CRUDE OIL AND NATURAL GAS  
4 PRODUCTION.—For purposes of this section—

5                   “(1) IN GENERAL.—The terms ‘qualified crude  
6           oil production’ and ‘qualified natural gas production’  
7           mean domestic crude oil or natural gas which is pro-  
8           duced from a qualified marginal well.

9                   “(2) LIMITATION ON AMOUNT OF PRODUCTION  
10 WHICH MAY QUALIFY.—

11                   “(A) IN GENERAL.—Crude oil or natural  
12           gas produced during any taxable year from any  
13           well shall not be treated or qualified crude oil  
14           production or qualified natural gas production  
15           to the extent production from the well during  
16           the taxable year exceeds 1,095 barrels or barrel  
17           equivalents.

18                   “(B) PROPORTIONATE REDUCTIONS.—

19                   “(i) SHORT TAXABLE YEARS.—In the  
20           case of a short taxable year, the limitations  
21           under this paragraph shall be proportion-  
22           ately reduced to reflect the ratio which the  
23           number of days in such taxable year bears  
24           to 365.

1                   “(ii) WELLS NOT IN PRODUCTION EN-  
 2                   TIRE YEAR.—In the case of a well which is  
 3                   not capable of production during each day  
 4                   of a taxable year, the limitations under  
 5                   this paragraph applicable to the well shall  
 6                   be proportionately reduced to reflect the  
 7                   ratio which the number of days of produc-  
 8                   tion bears to the total number of days in  
 9                   the taxable year.

10                  “(3) DEFINITIONS.—

11                   “(A) QUALIFIED MARGINAL WELL.—The  
 12                   term ‘qualified marginal well’ means a domestic  
 13                   well—

14                   “(i) the production from which during  
 15                   the taxable year is treated as marginal  
 16                   production under section 613A(c)(6), or

17                   “(ii) which, during the taxable year—

18                   “(I) has average daily production  
 19                   of not more than 25 barrel equiva-  
 20                   lents, and

21                   “(II) produces water at a rate  
 22                   not less than 95 percent of total well  
 23                   effluent.

24                   “(B) CRUDE OIL, ETC.—The terms ‘crude  
 25                   oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have

1           the meanings given such terms by section  
2           613A(e).

3           “(C) BARREL EQUIVALENT.—The term  
4           ‘barrel equivalent’ means, with respect to nat-  
5           ural gas, a conversion ratio of 6,000 cubic  
6           feet of natural gas to 1 barrel of crude oil.

7           “(d) OTHER RULES.—

8           “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-  
9           PAYER.—In the case of a qualified marginal well in  
10          which there is more than one owner of operating in-  
11          terests in the well and the crude oil or natural gas  
12          production exceeds the limitation under subsection  
13          (c)(2), qualifying crude oil production or qualifying  
14          natural gas production attributable to the taxpayer  
15          shall be determined on the basis of the ratio which  
16          taxpayer’s revenue interest in the production bears  
17          to the aggregate of the revenue interests of all oper-  
18          ating interest owners in the production.

19          “(2) OPERATING INTEREST REQUIRED.—Any  
20          credit under this section may be claimed only on  
21          production which is attributable to the holder of an  
22          operating interest.

23          “(3) PRODUCTION FROM NONCONVENTIONAL  
24          SOURCES EXCLUDED.—In the case of production  
25          from a qualified marginal well which is eligible for

1       the credit allowed under section 29 for the taxable  
 2       year, no credit shall be allowable under this section  
 3       unless the taxpayer elects not to claim the credit  
 4       under section 29 with respect to the well.

5           “(4) NONCOMPLIANCE WITH POLLUTION  
 6       LAWS.—For purposes of subsection (c)(3)(A), a  
 7       marginal well which is not in compliance with the  
 8       applicable State and Federal pollution prevention,  
 9       control, and permit requirements for any period of  
 10      time shall not be considered to be a qualified mar-  
 11      ginal well during such period.”.

12      (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
 13      tion 38(b), as amended by section 601(b), is amended by  
 14      striking ‘plus’ at the end of paragraph (16), by striking  
 15      the period at the end of paragraph (17) and inserting “,  
 16      plus”, and by adding at the end the following:

17           “(18) the marginal oil and gas well production  
 18      credit determined under section 45I(a).”.

19      (c) CREDIT ALLOWED AGAINST REGULAR AND MIN-  
 20      IMUM TAX.—

21           (1) IN GENERAL.—Subsection (c) of section 38  
 22      (relating to limitation based on amount of tax), as  
 23      amended by section 201(d)(1), is amended by redес-  
 24      ignating paragraph (4) as paragraph (5) and by in-  
 25      serting after paragraph (3) the following:

1           “(4) SPECIAL RULES FOR MARGINAL OIL AND  
2       GAS WELL PRODUCTION CREDIT.—

3           “(A) IN GENERAL.—In the case of the  
4       marginal oil and gas well production credit—

5           “(i) this section and section 39 shall  
6       be applied separately with respect to the  
7       credit, and

8           “(ii) in applying paragraph (1) to the  
9       credit—

10           “(I) subparagraphs (A) and (B)  
11       thereof shall not apply, and

12           “(II) the limitation under para-  
13       graph (1) (as modified by subclause  
14       (I)) shall be reduced by the credit al-  
15       lowed under subsection (a) for the  
16       taxable year (other than the marginal  
17       oil and gas well production credit).

18           “(B) MARGINAL OIL AND GAS WELL PRO-  
19       DUCTION CREDIT.—For purposes of this sub-  
20       section, the term ‘marginal oil and gas well pro-  
21       duction credit’ means the credit allowable under  
22       subsection (a) by reason of section 45I(a).”.

23           (2) CONFORMING AMENDMENTS.—Subclause  
24       (II) of section 38(c)(2)(A)(ii), as amended by section  
25       201(d)(2), and subclause (II) of section

1       38(c)(3)(A)(ii), as added by section 201(d)(1), are  
 2       each amended by inserting “or the marginal oil and  
 3       gas well production credit” after “home credit”.

4       (d) CARRYBACK.—Subsection (a) of section 39 (relat-  
 5       ing to carryback and carryforward of unused credits gen-  
 6       erally) is amended by adding at the end the following:

7               “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL  
 8       AND GAS WELL PRODUCTION CREDIT.—In the case  
 9       of the marginal oil and gas well production credit—

10              “(A) this section shall be applied sepa-  
 11              rately from the business credit (other than the  
 12              marginal oil and gas well production credit),

13              “(B) paragraph (1) shall be applied by  
 14              substituting ‘10 taxable years’ for ‘1 taxable  
 15              years’ in subparagraph (A) thereof, and

16              “(C) paragraph (2) shall be applied—

17                      “(i) by substituting ‘31 taxable years’  
 18                      for ‘21 taxable years’ in subparagraph (A)  
 19                      thereof, and

20                      “(ii) by substituting ‘30 taxable years’  
 21                      for ‘20 taxable years’ in subparagraph (A)  
 22                      thereof.”.

23       (e) COORDINATION WITH SECTION 29.—Section  
 24       29(a) is amended by striking “There” and inserting “At  
 25       the election of the taxpayer, there”.

1 (f) CLERICAL AMENDMENT.—The table of sections  
 2 for subpart D of part IV of subchapter A of chapter I,  
 3 as amended by section 601(c), is amended by adding at  
 4 the end the following:

“Sec. 45L. Credit for producing oil and gas from marginal wells.”.

5 (g) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to production in taxable years be-  
 7 ginning after December 31, 2001.

8 **SEC. 603. DEDUCTION FOR DELAY RENTAL PAYMENTS.**

9 (a) IN GENERAL.—Section 263 (relating to capital  
 10 expenditures) is amended by adding at the end the fol-  
 11 lowing:

12 “(j) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL  
 13 AND GAS WELLS.—

14 “(1) IN GENERAL.—Notwithstanding subsection  
 15 (a), a taxpayer may elect to treat delay rental pay-  
 16 ments incurred in connection with the development  
 17 of oil or gas within the United States (as defined in  
 18 section 638) as payments which are not chargeable  
 19 to capital account. Any payments so treated shall be  
 20 allowed as a deduction in the taxable year in which  
 21 paid or incurred.

22 “(2) DELAY RENTAL PAYMENTS.—For purposes  
 23 of paragraph (1), the term ‘delay rental payment’  
 24 means an amount paid for the privilege of deferring

1 development of an oil or gas well under an oil or gas  
2 lease.”.

3 (b) CONFORMING AMENDMENT.—Section 263A(c)(3)  
4 is amended by inserting “263(j),” after “263(i),”.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to amounts paid or incurred in tax-  
7 able years beginning after December 31, 2001.

8 **SEC. 604. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**  
9 **PHYSICAL EXPENDITURES.**

10 (a) IN GENERAL.—Section 263 (relating to capital  
11 expenditures), as amended by section 603(a), is amended  
12 by adding at the end the following:

13 “(k) GEOLOGICAL AND GEOPHYSICAL EXPENDI-  
14 TURES FOR DOMESTIC OIL AND GAS WELLS.—Notwith-  
15 standing subsection (a), a taxpayer may elect to treat geo-  
16 logical and geophysical expenses incurred in connection  
17 with the exploration for, or development of, oil or gas with-  
18 in the United States (as defined in section 638) as ex-  
19 penses which are not chargeable to capital account. Any  
20 expenses so treated shall be allowed as a deduction in the  
21 taxable year in which paid or incurred.”.

22 (b) CONFORMING AMENDMENT.—Section  
23 263A(c)(3), as amended by section 603(b), is amended by  
24 inserting “263(k),” after “263(j),”.



1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to costs paid or incurred in taxable  
3 years beginning after December 31, 2001.

4 **SEC. 605. GAS PIPELINES TREATED AS 7-YEAR PROPERTY.**

5 (a) IN GENERAL.—Subparagraph (C) of section  
6 168(e)(3) (relating to classification of certain property),  
7 as amended by section 304(a)(1), is amended by striking  
8 “and” at the end of clause (iii), by redesignating clause  
9 (iv) as clause (v), and by inserting after clause (iii) the  
10 following:

11 “(iv) any gas pipeline, and”.

12 (b) GAS PIPELINE.—Subsection (i) of section 168, as  
13 amended by section 304(b), is amended by adding at the  
14 end the following:

15 “(17) GAS PIPELINE.—The term ‘gas pipeline’  
16 means the pipe, storage facilities, equipment, dis-  
17 tribution infrastructure, and appurtenances used to  
18 deliver natural gas.”

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by  
21 this section shall apply to property placed in service  
22 on or after the date of the enactment of this Act.

23 (2) ACCOUNTING RULE FOR PUBLIC UTILITY  
24 PROPERTY.—If any gas pipeline is public utility  
25 property (as defined in section 46(f)(5) of the Inter-

1       nal Revenue Code of 1986, as in effect on the day  
 2       before the date of the enactment of the Revenue  
 3       Reconciliation Act of 1990), the amendments made  
 4       by this section shall only apply to such property if,  
 5       with respect to such property, the taxpayer uses a  
 6       normalization method of accounting.

7   **SEC. 606. CRUDE OIL AND NATURAL GAS DEVELOPMENT**  
 8       **CREDIT.**

9       (a) IN GENERAL.—Subpart D of part IV of sub-  
 10   chapter A of chapter 1 (relating to business related cred-  
 11   its), as amended by section 602(a), is amended by adding  
 12   at the end the following:

13   **“SEC. 45J. CRUDE OIL AND NATURAL GAS DEVELOPMENT**  
 14       **CREDIT.**

15       “(a) IN GENERAL.—For purposes of section 38, the  
 16   crude oil and natural gas development credit determined  
 17   under this section for any taxable year shall be an amount  
 18   equal to the taxpayer’s qualified investment for the taxable  
 19   year.

20       “(b) REDUCTION AS OIL AND GAS PRICES IN-  
 21   CREASE.—

22       “(1) IN GENERAL.—The amount which would  
 23   (but for this subsection) be taken into account under  
 24   subsection (a) for the taxable year shall be reduced  
 25   (but not below zero) by an amount which bears the

1 same ratio to such amount (determined without re-  
2 gard to this subsection) as—

3 “(A) the excess (if any) of the applicable  
4 reference price over \$11, bears to

5 “(B) \$3.

6 The applicable reference price for a taxable  
7 year is the reference price of the calendar year  
8 preceding the calendar year in which the tax-  
9 able year begins.

10 “(2) INFLATION ADJUSTMENT.—In the case of  
11 any taxable year beginning in a calendar year after  
12 2001, each of the dollar amounts contained in para-  
13 graph (1) shall be increased to an amount equal to  
14 such dollar amount multiplied by the inflation ad-  
15 justment factor for such calendar year (determined  
16 under section 43(b)(3)(B) by substituting ‘2000’ for  
17 ‘1990’).

18 “(3) REFERENCE PRICE.—For purposes of this  
19 subsection, the term ‘reference price’ means, with re-  
20 spect to any calendar year, the reference price deter-  
21 mined under section 29(d)(2)(C).

22 “(c) QUALIFIED INVESTMENT.—For purposes of this  
23 section, the term ‘qualified investment’ means amounts  
24 paid or incurred—

1           “(1) for the purpose of drilling and equipping  
2       crude oil and natural gas wells (including pollution  
3       control equipment used in connection with such  
4       wells), or

5           “(2) for the purpose of performing secondary or  
6       tertiary recovery techniques,  
7       on properties located within the United States (as defined  
8       in section 638), but only to the extent that the expenditure  
9       is not taken into account for purposes of a credit under  
10      any other section.

11       “(d) SPECIAL RULES.—For purposes of this  
12      section—

13           “(1) AGGREGATION OF QUALIFIED INVESTMENT  
14      EXPENSES.—

15           “(A) CONTROLLED GROUPS; COMMON CON-  
16      TROL.—In determining the amount of the cred-  
17      it under this section, all members of the same  
18      controlled group of corporations (within the  
19      meaning of section 52(a)) and all persons under  
20      common control (within the meaning of section  
21      52(b)) shall be treated as a single taxpayer for  
22      purposes of this section.

23           “(B) APPORTIONMENT OF CREDIT.—The  
24      credit (if any) allowable by this section to mem-  
25      bers of any group (or to any person) described

1 in subparagraph (A) shall be such member's or  
 2 person's proportionate share of the qualified in-  
 3 vestment expenses giving rise to the credit de-  
 4 termined under regulations prescribed by the  
 5 Secretary.

6 “(2) PARTNERSHIPS, S CORPORATIONS, ES-  
 7 TATES AND TRUSTS.—

8 “(A) PARTNERSHIPS AND S CORPORA-  
 9 TIONS.—In the case of a partnership, the credit  
 10 shall be allocated among partners under regula-  
 11 tions prescribed by the Secretary. A similar rule  
 12 shall apply in the case of an S corporation and  
 13 its shareholders.

14 “(B) PASS-THRU IN THE CASE OF ES-  
 15 TATES AND TRUSTS.—Under regulations pre-  
 16 scribed by the Secretary, rules similar to the  
 17 rules of subsection (d) of section 52 shall apply.

18 “(3) ADJUSTMENTS FOR CERTAIN ACQUISI-  
 19 TIONS AND DISPOSITIONS.—Under regulations pre-  
 20 scribed by the Secretary, rules similar to the rules  
 21 contained in section 41(f)(3) shall apply with respect  
 22 to the acquisition or disposition of a taxpayer.

23 “(4) SHORT TAXABLE YEARS.—In the case of  
 24 any short taxable year, qualified investment expenses  
 25 shall be annualized in such circumstances and under

1       such methods as the Secretary may prescribe by reg-  
2       ulation.

3               “(5) DENIAL OF DOUBLE BENEFIT.—

4               “(A) DISALLOWANCE OF DEDUCTION.—

5               Any deduction allowable under this chapter for  
6               any costs taken into account in computing the  
7               amount of the credit determined under sub-  
8               section (a) shall be reduced by the amount of  
9               such credit attributable to such costs.

10              “(B) BASIS ADJUSTMENTS.—For purposes  
11              of this subtitle, if a credit is determined under  
12              this section for any expenditure with respect to  
13              any property, the increase in the basis of such  
14              property which would (but for this subsection)  
15              result from such expenditures shall be reduced  
16              by the amount of the credit so allowed.”.

17       (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
18       tion 38(b), as amended by section 602(b), is amended by  
19       striking “plus” at the end of paragraph (17), by striking  
20       the period at the end of paragraph (18) and inserting  
21       “, plus”, and by adding at the end the following:

22              “(19) the crude oil and natural gas develop-  
23       ment credit determined under section 45J(a).”.

1       (c) TRANSITIONAL RULE.—Section 39(d) (relating to  
2 transitional rules), as amended by section 402(c), is  
3 amended by adding at the end the following:

4           “(15) NO CARRYBACK OF SECTION 45J CREDIT  
5 BEFORE EFFECTIVE DATE.—No portion of the un-  
6 used business credit for any taxable year which is  
7 attributable to the crude oil and natural gas develop-  
8 ment credit determined under section 48J may be  
9 carried back to a taxable year ending before January  
10 1, 2002.”.

11       (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-  
12 IMUM TAX.—

13           (1) IN GENERAL.—Subsection (c) of section 38  
14 (relating to limitation based on amount of tax), as  
15 amended by section 602(c)(1), is amended by redес-  
16 ignating paragraph (5) as paragraph (6) and by in-  
17 serting after paragraph (4) the following:

18           “(5) SPECIAL RULES FOR CRUDE OIL AND NAT-  
19 URAL GAS DEVELOPMENT CREDIT.—

20           “(A) IN GENERAL.—In the case of the  
21 crude oil and natural gas development credit—

22                   “(i) this section and section 39 shall  
23 be applied separately with respect to the  
24 credit, and

1 “(ii) in applying paragraph (1) to the  
2 credit—

3 “(I) subparagraphs (A) and (B)  
4 thereof shall not apply, and

5 “(II) the limitation under para-  
6 graph (1) (as modified by subclause  
7 (I)) shall be reduced by the credit al-  
8 lowed under subsection (a) for the  
9 taxable year (other than the crude oil  
10 and natural gas development credit).

11 “(B) CRUDE OIL AND NATURAL GAS DE-  
12 VELOPMENT CREDIT.—For purposes of this  
13 subsection, the term ‘crude oil and natural gas  
14 development credit’ means the credit allowable  
15 under subsection (a) by reason of section  
16 45J(a).”.

17 (2) CONFORMING AMENDMENTS.—Subclause  
18 (II) of section 38(c)(2)(A)(ii) and subclause (II) of  
19 section 38(c)(3)(A)(ii), as amended by section  
20 602(c)(2), and subclause (II) of section  
21 38(c)(4)(A)(ii), as added by section 602(c)(1), are  
22 each amended by inserting “or the crude oil and  
23 natural gas development credit” after “well produc-  
24 tion credit”.



1 (e) CLERICAL AMENDMENT.—The table of sections  
 2 for subpart D of part IV of subchapter A of chapter 1,  
 3 as amended by section 602(f), is amended by adding at  
 4 the end the following:

“Sec. 45J. Crude oil and natural gas development credit.”.

5 (f) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to expenditures paid or incurred  
 7 in taxable years beginning after December 31, 2001.

8 **SEC. 607. CREDIT FOR CAPTURE OF COALMINE METHANE**  
 9 **GAS.**

10 (a) IN GENERAL.—Subpart D of part IV of sub-  
 11 chapter A of chapter 1 (relating to business related cred-  
 12 its), as amended by section 606(a), is amended by adding  
 13 at the end the following:

14 **“SEC. 45K. CAPTURE OF COALMINE METHANE GAS.**

15 “(a) IN GENERAL.—For purposes of section 38, the  
 16 coalmine methane gas capture credit of any taxpayer for  
 17 any taxable year is \$1.21 for 1,000,000 Btu of coalmine  
 18 methane gas captured by the taxpayer and utilized as a  
 19 fuel source or sold by or on behalf of the taxpayer to an  
 20 unrelated person during such taxable year (within the  
 21 meaning of section 45).

22 “(b) COALMINE METHANE GAS.—For purposes of  
 23 this section, the term ‘coalmine methane gas’ means any  
 24 methane gas which is being liberated, or would be liber-  
 25 ated, during qualified coal mining operations or as a result

1 of past qualified coal mining operations, or which is ex-  
 2 tracted up to 10 years in advance of qualified coal mining  
 3 operations as part of specific plan to mine a coal deposit.

4 “(c) SPECIAL RULE FOR ADVANCED EXTRACTION.—  
 5 In the case of coalmine methane gas which is captured  
 6 in advance of qualified coal mining operations, the credit  
 7 under subsection (a) shall be allowed only after the date  
 8 the coal extraction occurs in the immediate area where the  
 9 coalmine methane gas was removed.

10 “(d) NONCOMPLIANCE WITH POLLUTION LAWS.—For  
 11 purposes of subsections (b) and (c), coal mining operations  
 12 which are not in compliance with the applicable State and  
 13 Federal pollution prevention, control, and permit require-  
 14 ments for any period of time shall not be considered to  
 15 be qualified coal mining operations during such period.

16 “(e) APPLICATION OF RULES.—For purposes of this  
 17 section, rules similar to the rules of paragraphs (3), (4),  
 18 and (5) of section 45(d) shall apply.”.

19 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
 20 tion 38(b), as amended by section 606(b), is amended by  
 21 striking “plus” at the end of paragraph (18), by striking  
 22 the period at the end of paragraph (19) and inserting  
 23 “, plus”, and by adding at the end the following:

24 “(20) the coalmine methane gas capture credit  
 25 determined under section 45K(a).”.

1       (c) CLERICAL AMENDMENT.—The table of sections  
 2 for subpart D of part IV of subchapter A of chapter 1,  
 3 as amended by section 606(c), is amended by adding at  
 4 the end the following:

“Sec. 45K. Capture of coalmine methane gas.”.

5       (d) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to the capture of coalmine methane  
 7 gas after the date of the enactment of this Act.

8 **SEC. 608. ALLOCATION OF ALCOHOL FUELS CREDIT TO**  
 9 **PATRONS OF A COOPERATIVE.**

10       (a) IN GENERAL.—Section 40(d) (relating to alcohol  
 11 used as fuel) is amended by adding at the end the fol-  
 12 lowing:

13               “(6) ALLOCATION OF SMALL ETHANOL PRO-  
 14 DUCER CREDIT TO PATRONS OF COOPERATIVE.—

15               “(A) IN GENERAL.—In the case of a coop-  
 16 erative organization described in section  
 17 1381(a), any portion of the credit determined  
 18 under subsection (a)(3) for the taxable year  
 19 may, at the election of the organization made  
 20 on a timely filed return (including extensions)  
 21 for such year, be apportioned pro rata among  
 22 patrons of the organization on the basis of the  
 23 quantity or value of business done with or for  
 24 such patrons for the taxable year. Such an elec-

tion, once made, shall be irrevocable for such taxable year.

“(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A)—

“(i) shall not be included in the amount determined under subsection (a) for the taxable year of the organization, and

“(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron in which the patronage dividend for the taxable year referred to in subparagraph (A) is includible in gross income.

“(C) SPECIAL RULE FOR DECREASING CREDIT FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the cooperative organization’s return for such year, an amount equal to the excess of such reduction over the amount not apportioned to the patrons under subparagraph (A) for the

1 taxable year shall be treated as an increase in  
 2 tax imposed by this chapter on the organiza-  
 3 tion. Any such increase shall not be treated as  
 4 tax imposed by this chapter for purposes of de-  
 5 termining the amount of any credit under this  
 6 subpart or subpart A, B, E, or G of this part.”.

7 (b) TECHNICAL AMENDMENT.—Section 1388 (relat-  
 8 ing to definitions and special rules for cooperative organi-  
 9 zations) is amended by adding at the end the following:  
 10 “(k) CROSS REFERENCE.—For provisions relating to  
 11 the apportionment of the alcohol fuels credit between coop-  
 12 erative organizations and their patrons, see section  
 13 40(d)(6).”.

14 (c) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to taxable years beginning after  
 16 December 31, 2001.

17 **SEC. 609. EXTENSION OF CREDIT FOR PRODUCING FUEL**  
 18 **FROM A NONCONVENTIONAL SOURCE.**

19 (a) INCLUSION OF ALASKA NATURAL GAS.—Section  
 20 29(c)(1) (defining qualified fuels) is amended by striking  
 21 “and” at the end of subparagraph (B)(ii), by striking the  
 22 period at the end of subparagraph (C) and inserting “,  
 23 and”, and by adding at the end the following:

24 “(D) Alaska natural gas.”.

1 (b) DEFINITION.—Section 29(c) is amended by add-  
2 ing at the end the following:

3 “(4) ALASKA NATURAL GAS.—The term ‘Alaska  
4 natural gas’ means gas produced in compliance with  
5 the applicable State and Federal pollution preven-  
6 tion, control, and permit requirements from the area  
7 generally known as the North Slope of Alaska (in-  
8 cluding the continental shelf thereof within the  
9 meaning of section 638(1)), determined without re-  
10 gard to the area of the Alaska National Wildlife Ref-  
11 uge (including the continental shelf thereof within  
12 the meaning of section 638(1)).”.

13 (c) AMOUNT OF CREDIT.—

14 (1) IN GENERAL.—Section 29(a)(1) (relating to  
15 allowance of credit) is amended by inserting “(\$1.45  
16 in the case of a qualified fuel described in subsection  
17 (c)(1)(D))” after “\$3”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Section 29(b)(2) is amended by strik-  
20 ing “The \$3 amount” and inserting “The \$3  
21 and \$1.45 amounts”.

22 (B) Section 29(d)(2)(B) is amended by in-  
23 serting “(calendar year 2001 in the case of the  
24 \$1.45 amount in subsection (a)(1))” after  
25 “1979”.

1       (d) EXTENSION OF CREDIT.—Section 29(g) (relating  
2 to extension for certain facilities) is amended by adding  
3 at the end the following:

4               “(3) SPECIAL RULE FOR ALASKA NATURAL GAS  
5 WELLS.—In the case of a well for producing quali-  
6 fied fuel described in subsection (c)(1)(D)—

7               “(A) for purposes of subsection (f)(1)(A),  
8 such well shall be treated as being placed in  
9 service before January 1, 1993, if such well is  
10 placed in service before January 1, 2009, and

11               “(B) subsection (f)(2) shall be applied with  
12 respect to such well by substituting ‘after De-  
13 cember 31, 2001, and before January 1, 2009’  
14 for ‘before January 1, 2003’.”.

15       (e) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years ending after De-  
17 cember 31, 2001.

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